



Report and Implementation Update June, 2005

As required by 558.019.6 RSMo.



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Changes and Corrections Since Publication (June, 2005)

1. Recommended Sentence Matrix for Violent Offenses, Class B, Medium and Low severity for the Aggravating sentence at Level I Prior Criminal History was changed from 3 years to 5 years. (Page 22) August 1, 2005
2. Corrections to How to use the Recommended Sentences Matrices. (Page 20-21) and Example of a Completed SAR. Changes to the Recommended Sentence and to Offender Risk Factors #4 and #9. (Page 52, 53) September 7, 2005
3. Change SAR Probation Officer's Recommendation to grant or deny a probationary sentence. (Page 49, 52) September 14, 2005
4. Correct/Revise Missouri Statute and Charge Codes in the Preface (Page 4); Missouri Sentencing Laws (Page 14, 16); and Offense Grouping to Measure Offense Severity (Page 75) September 27, 2005

PREFACE

The Sentencing Advisory Commission is pleased to report on the successful efforts to implement the commission's system of recommended sentencing. This is our second statutorily required report under Section 558.019.6(5) RSMo.

In cooperation with the Department of Corrections and Missouri's judiciary, the commission has tested and adapted its recommendations based on the experience in six "pilot" judicial circuits that consist of a mix of urban and rural jurisdictions. The six pilot sites began using the new recommended sentences in December 2004, and we expect the system to be implemented statewide by November 1, 2005.

The assumptions that drive these efforts are that all who participate in sentencing and corrections decisions should be as fully informed as possible, including vital information about alternatives available in sentencing and in managing individual offenders. **The sentences recommended in this report are based upon current and recent sentencing practices of Missouri's trial judges.**

The Sentencing Advisory Commission's goals are to promote public safety, fairness and efficiency in sentencing and corrections and to promote the wisest use of the state's resources.

Corrections Director Larry Crawford, from his first day on the job in January 2005, has continued the Department's full cooperation in the commission's efforts and has provided matching funds for the commission's federal Byrne program grant. With the grant, the commission hired Executive Director Kim Green, who is assisted by the commission's secretary, Julie Nienhueser, to coordinate and enhance the commission's implementation efforts. The staff's first major initiative involved organizing six training sessions around the state that were attended by nearly 500 judges, prosecutors, defense attorneys, and probation and parole officers. These sessions were very well received and we appreciate the cooperation of the probation and parole staff, prosecutors, public defender staff and commission members whose presentations made up the program. A web-based seminar is planned this month (June) and will be available on the commission's website.

The grant funds also support the work of the data and research component of the commission's work, which the Department of Correction's Director of Research and Evaluation David Oldfield coordinates. His efforts have been the centerpiece of the commission's effort since it was re-established under the 2003 revision of section 559.019.6. RSMo. The first members of the current commission were appointed in late 2003; the revised statute required our first report by June 2004 and this report in June 2005. We could not have done this without him.

Success of the commission's progress in implementation is the result of the efforts of the probation and parole staff, under the leadership of the Board of Probation and Parole Chief State Supervisor Scott Johnston and the implementation team led by Glenn Brucker, probation and parole regional administrator, Central Region. The focus of their

efforts is a revision of the pre-sentence investigation (PSI) report format, called a Sentencing Assessment Report (SAR), which contains the commission's sentencing recommendation for the individual offender, the probation and parole officer's recommendations on how the offender should be managed -- whether on probation, intensive probation (called a Community-Structured Sentence), or in prison to serve either a shock/treatment program or a term sentence.

The Sentencing Assessment Report also details available alternatives to incarceration, where appropriate, and lets the judges and lawyers know what the sentence is likely to mean in terms of the Parole Board's guidelines and actual paroling decisions. The Sentencing Assessment Report tells the judges and lawyers how an offender scores on a statistically validated risk assessment scale – information the Department of Corrections (DOC) uses in offender management strategies in the community and in prison. The scale is based on the salient factor risk assessment the Board of Probation and Parole uses in making parole release decisions.

The commission and DOC adopted the Sentencing Assessment Report strategy after studying why the earlier sentencing commission's 1998 recommendations were not being followed. The Sentencing Assessment Report is intended to remedy the lack of information that decision makers in the criminal justice system had about the previous commission's recommendations. The commission thanks the probation and parole officers in the field, especially those in the six pilot circuits, whose comments and suggestions resulted in major improvements in the system during this implementation year.

The commission staff also is coordinating production of an interactive feature of the commission's website, www.mosac.mo.gov. When completed this summer, the interactive website will allow users, including judges, lawyers, and the public, to enter information on an offender or defendant, if pre-trial, and get access to the commission's sentencing recommendations, risk assessment and the Board of Probation and Parole release guidelines and actual time served estimates. The commission staff, with assistance from Mr. Oldfield, is also making this information accessible in a Users' Guide, produced in conjunction with this report. The commission also has included, as Appendix H to this report, information on restorative justice programs as alternatives to incarceration.

The commission's grant also supports the DOC's efforts to assist probation and parole officers in adapting the department's computer-based offender management system to prepare Sentencing Assessment Reports. The commission is grateful to the Department of Public Safety and its director, Mark James, for the grant support under the federal Byrne program.

The commission believes that the efforts outlined here will have a major impact on promoting public safety, fairness in sentencing, and on the wise use of the state's correctional resources. If our expectation is correct, the achievements are the direct result of the extraordinary cooperation, professionalism and mutual respect shown by all

participants – probation and parole officers, judges, prosecutors and defense attorneys, and corrections professionals. The commission welcomes comments and suggestions; send to executive director Kim Green, PO Box 104480, Jefferson City, MO 65110 or e-mail to Kim.Green@courts.mo.gov.

CHANGES TO THE SYSTEM OF RECOMMENDED SENTENCES DURING IMPLEMENTATION

The System of Recommended Sentencing has been revised in response to feedback the Commission has received during implementation and from the monitoring of the pilot sites using the Sentencing Assessment Report (SAR).

The main change, introduced in March 2005, was the use of a prior criminal history level to determine the recommended sentence. The offender risk indicator, proposed in the 2004 report, was found to be causing concerns in the pilot sites for particular groups of offenders affected by the application of the non-offense risk factors. The most problematic issue was the effect upon young offenders who were penalized by the risk score that identified young offenders as a high-risk group. The prior criminal history level is used to determine the recommended sentence while the offender risk score is used to advise the courts on the level of field supervision and on the likely time an offender sentenced to a prison term will serve before parole. Because the new criminal history measure has offenders with a lesser prior criminal history in level II than the 1998 criminal history level II the recommended sentence of shock or treatment has been replaced with Community Structured Sentence when the percent prison disposition in FY04 was less than 50% (see the Recommended Sentence Matrices).

The other significant change to the recommended sentences is the revision to the recommended sentences for aggravating circumstances for violent, sex and child offenses. The aggravating sentence for these offenses is now a prison sentence. This reflects current sentencing practice and the statutory restrictions on the use of shock or treatment programs for offenders convicted of violent or sex crimes. The sentencing recommendation in the SAR will include a reference to the most suitable sentence, taking into account the available institutional and community alternative sentencing and an assessment of the defendant's criminal history and the offense circumstances.

Other changes include:

- Renaming the offense severity measure from level I (most severe) to III (least severe) to High, Medium and Low severity.
- Renaming the lowest offender risk category from Excellent to Good.
- Changes to the offender risk definitions as a result of experience in the calculation of the risk measures. The offender risk definitions are given in Appendix B.
- The severity of offense listing that accompanies the sentencing matrices for each offense group is simplified to show only the sentencing for the commission of the offense. Convictions for the attempt or as a prior and persistent offender have been excluded.
- An estimate has been made of the impact upon sentencing if the sentencing recommendations are adopted. The analysis is included in Appendix D, page 76.

A review of the responses of judges to the new system of recommended sentences in the pilot sites is contained in Appendix G

COMMISSION FINDINGS AND PROPOSALS

The commission, after discussion and a review of research and statistical material, has concluded that there appears to be general support for the use of recommended sentences and in the use of alternative sentences. There was evidence, however, that the system of recommended sentences created in 1998 was not widely used. This observation was one of the findings from a study by Professors Robinson and Aruguete of Lincoln University in 2002 (*Attitudes Toward and the Use of Sentencing Guidelines Among Missouri Circuit Court Judges*). The Office of the State Courts Administrator and the Department of Corrections supported the study and the study is available from the Department of Corrections website <http://www.doc.missouri.gov/>.

The commission considers that a major reason for the lack of reference to the recommended sentences is the difficulty judges had in easily interpreting the old sentencing users' manual. The court records did not always include the computation of the prior criminal history level and there may not have been a determination of whether there were mitigating or aggravating circumstances surrounding the offense. The selection of an alternative sentence was made more difficult than it needed to be because the sentencing matrix used abbreviations to describe the recommended alternative sentences. Finally, not all alternative sentences are available to all court circuits (Community Structured Sentences, page 44). The following proposals from the 2004 report have been instituted to allow easier use of recommended sentences and alternative sentences:

Proposal 1

The Missouri Department of Corrections and the Board of Probation and Parole will provide the courts with a timely, focused sentencing assessment that will include the calculation of the recommended sentence. A court may decline or waive the assessment if it considers that the delay in sentencing will be burdensome.

The sentencing assessment now summarizes the offender's criminal history, provides a risk assessment, identifies the victim impact and develops an offender management plan. The recommended sentence and the available alternative sentences are determined. If the recommended sentence is a prison term, the report includes the guideline parole eligibility, expressed as a percent of sentence and the actual percent of sentence served. The report will be completed within the time required by the courts. The Sentencing Assessment Report (SAR) is more concise than the Pre-Sentence Investigation that it will replace. Total statewide switchover to the SAR is expected to be complete by November 1, 2005.

Proposal 2

The system of recommended sentences will use the offender's prior criminal history and an offense severity grouping that reflects the public concern over different types of crime. The commission will also use an offender risk assessment to advise on supervision strategies.

The commission has also concluded that the system of recommended sentences should be improved to address concerns of many judges that the recommended sentences provide insufficient information on offender risk and in the offense severity. The commission wishes to continue to make the recommended sentences reflect current sentencing practice (Appendix D, Page 76).

Proposal 3

The sentencing assessment will be provided to the courts when re-sentencing probation violators.

The system of recommended sentences is based upon the analysis of the first sentencing decision following a conviction or finding of guilt for a felony offense. The system is intended for reference before sentencing. However, because of the value of an improved offender risk assessment, the commission considers that the sentencing assessment and recommended sentence could also be used when a probationer is before the court for a possible revocation and/or re-sentencing. The Board of Probation and Parole has agreed to provide the sentencing assessment form for probation violators. A finding of the sentencing disparity study is that there is a difference in sentencing between the metropolitan areas and other counties. One explanation for this difference is a lack of local alternative sentencing options in all areas of the state but a wider application of the recommended sentences should also help to reduce the disparity. Guidance on the use of the recommended sentences for probation violators is being developed.

Proposal 4.

The sentencing assessment will include a community risk assessment of sex offenders using tested and validated methods.

The commission is supportive of the advantages of conducting a risk assessment of sex offenders in the community without the need for a referral to an institutional assessment unit. The Department of Probation and Parole is developing a sex offender risk assessment tool for the sentencing process.

Proposal 5

The commission will continue to study fines, court costs and other charges placed upon offenders after a finding of guilt.

The commission has discussed the advantages and disadvantages of proposing that the legislature review the fine schedule. The fine schedule was last changed in 1977. Increasing the level of fines would provide additional resources for the state and may, as an alternative sanction, result in fewer offenders receiving jail or prison terms. However, with the increase in court costs in recent years and other charges and restitution that offenders are required to pay on a finding of guilty, the commission is concerned about the effects of an increased financial burden upon offenders who do not have the ability to pay.

Proposal 6

The commission will continue to study how to require offenders revoked from probation with outstanding restitution and the ability to pay, to continue restitution after release to parole.

The commission has discussed the inequality upon victims who are awarded restitution as a condition of probation but who are later denied the restitution because the offender was revoked to prison, thereby canceling the probation. Although the commission is supportive of enforcing restitution when the offer to pay restitution results in an offender receiving a mitigating sentence, the commission is concerned with the increased financial burden upon offenders on prison release.

The commission has undertaken statistical studies of sentencing disparity and death penalty sentencing. These studies, required by statute 558.019.6 RSMo, are included in the report (pages 54-69).

THE SYSTEM OF RECOMMENDED SENTENCES

Judicial discretion is the cornerstone of sentencing in Missouri courts. We said that in the 2004 report, and its truth is borne out in our experience in this year of implementation. The Sentencing Advisory Commission believes that sentencing in Missouri is at its best when the decision makers have accurate and timely information about the offender, the offenses and the options available for sentencing.

Section 558.019.6 RSMo. required the Missouri Sentencing Advisory Commission to review and publish a system of recommended sentences on or before July 1, 2004 and again before July 1, 2005. The next report will then be published by July 1, 2007. The statute also directs the commission to consider the feasibility of incorporating alternative sentences, prison work programs, work release, home-based incarceration and probation and parole options into the recommended sentences. The full text of Section 558.019.6 RSMo is included here as Appendix A, page 70.

The goal of these Sentencing Recommendations, which are consistent with Section 558.019.6 RSMo. and the other statutes on sentencing, is to achieve a system of sentencing that is fair, protects the public and uses corrections resources wisely. One goal of the Sentencing Advisory Commission is to reduce sentencing disparity. However, achieving that goal has often proven to be elusive because disparities in sentencing often are the result of differences between offenders and in the circumstances of their crimes.

The commission builds upon the work of the previous commission whose Advisory Sentencing Guidelines were promulgated in 1998. The commission has examined data and studies of the use and deviations from those guidelines.¹

The Sentencing Recommendations are **averages**, based upon current sentencing and corrections practices in the state as a whole. They provide:

1. **Criminal history and risk assessment.** The recommendations use an indicator of prior criminal history to determine the recommended sentence and a modified version of the salient risk factors used by the Missouri Board of Probation and Parole to determine eligibility for release on parole. The risk factors have been validated by statistical studies of Missouri incarcerated offenders.
2. **Grouping of offenses.** The recommendations arrange the offenses in groups in the same manner as the offenses are categorized by statute and by the Board of Probation and Parole. The grouping reflects similarity in sentencing practice.
3. **Severity of offenses.** Within each group of offenses, the crimes are arranged in categories of severity from High to Medium to Low. Severity of offenses was

¹ The commission decided to abandon the use of the phrase "sentencing guidelines" because the same phrase is used in the federal courts to describe a system that is entirely different from the sentencing system in Missouri courts. The commission labels its work as Sentencing Recommendations because that is what they are. They are not compulsory. The Missouri Sentencing Advisory Commission does not support a federal style guidelines system. In fact, the federal system has been rendered voluntary by the US Supreme Court decisions in Blakely (6/24/04) and Booker (1/12/05)

determined by examining the actual sentences imposed for each crime in the recent five-year period. The intention of the severity level is to ensure that offenses within the same felony class and offense group can be given similar sentences.

4. Aggravating and mitigating offense circumstances

Aggravating and mitigating circumstances are specific to each offense group. They are concerned with issues of victim impact and with offender willingness to make restitution or to address rectification of criminally related behavior, such as substance abuse treatment.

5. Sentencing recommendations. These are based upon data on *sentences from throughout the state*. The data on sentences for the prior year are included for each category of offense. Recommended sentences are given for the presumptive situation and for mitigating and aggravating circumstances

Following a proposal by the Missouri Department of Corrections and the Board of Probation and Parole, the system of providing pre-sentence information to courts and attorneys will be modified as follows:

The probation and parole officer is to provide the attorneys and the court a Sentencing Assessment Report within a time frame approved by the judge. The Sentencing Assessment Report will contain basic information on the offender and the offense, as well as the impact on the victim, and will provide the court and counsel with:

1. A rating of prior criminal history and the risk of re-offending, by using the offender risk factors as set forth in these Sentencing Recommendations;
2. An analysis of non-prison sentencing alternatives (where appropriate);
3. A recommendation for sentencing in accordance with these Sentencing Recommendations, and
4. Where a prison sentence is indicated, the report will indicate what percentage of the sentence must be served before the offender is eligible for a parole guideline release, and the percent of sentence that offenders with that sentence and risk rating actually served before parole.

The commission thanks the Missouri Department of Corrections and the Board of Probation and Parole for their willingness to integrate these recommendations into their work.

The commission is aware that, in many cases, the sentence is the result of a plea agreement. The information in the pages that follow will be useful in determining appropriate dispositions in plea-agreed cases. Counsel and courts should be aware that, although a plea agreement is done before entry of a plea and preparation of a Sentencing Assessment Report, a probation and parole officer or prison official would prepare a report in any event. This will help guide probation and parole officers in supervising those on probation or other community-based sentences or prison officials who will be responsible for finding the proper placement for those sentenced to prison.

The commission supports the use of drug courts and other diversionary programs like faith-based restorative justice projects for appropriate non-violent offenders. Drug courts have been found to be more effective and efficient than either incarceration or probation

without a treatment component in dealing with individuals whose criminal behavior is primarily the result of illegal drug abuse (*A Cost-Benefit Analysis of the St Louis City Adult Felony Drug Court*, Institute of Applied Research, 2004; *Multi-Jurisdictional Enhancement for Missouri Drug Courts*, University of Missouri-Columbia School of Social Work, 2001). Although not a focus of this study, we note that there are 70 operational drug court programs in Missouri; 2,100 active drug court participants; 3,200 drug court graduates; a 60% retention rate for individuals in drug court; a 10% recidivism rate for individuals who have graduated from drug court; and 144 drug-free babies who have been born to drug court participants.

The Sentencing Recommendations modify the terminology of probation to reflect different kinds of sentences. "Probation", in its traditional usage, means anything from minimal supervision to intensive supervision, electronic monitoring, or various other alternatives. These recommendations use the following terms to describe these different kinds of non-prison sentences:

Probation: Supervision in the community with periodic contact with a probation officer.

Community Structured Sentence (CSS): This is a non-prison sentence that is served in the community under a plan of strict supervision. It may include home-based incarceration (electronic monitoring) or other strategies for community supervision and may also require the offender to attend substance abuse or other community rehabilitative programs.

Institutional Shock or Treatment Programs (Shk/Trt): These include a variety of options under the shock probation statute, Section 559.115 RSMo, or other institution-based programs, as listed in section 4, Recommended Sentence References.

The commission hopes that judges and attorneys will find these recommendations and system changes, to be useful. Comments and suggestions are welcome so that the commission and the Department of Corrections can consider changes that seem desirable in light of experience in using these recommendations.

MISSOURI SENTENCING LAWS

The following references are made to statutes that define either the sentence disposition, the range within which an authorized sentence can be set or the incarceration time. The Revised Missouri Statutes are available online at

<http://www.moga.state.mo.us/homestat.asp>. Reference can also be made to the Missouri Board of Probation and Parole booklet on Procedures Governing the Granting of Paroles and Conditional Release,

<http://www.doc.missouri.gov/pdf/Blue%20book.pdf>.

Authorized dispositions for felony convictions include a term of imprisonment, a fine (if the offense is a class C or D felony, Section 560.011 RSMo.) and a period of probation. In addition, the execution of the sentence may be suspended and the person placed on probation or the imposition of the sentence may be suspended, with or without placing the person on probation (Section 557.011 RSMo.).

The Missouri statutes have provisions for enhanced sentencing when an offender is deemed to be a prior and persistent recidivist, and for a minimum prison time when the offender is deemed to be a recidivist or has been convicted of a dangerous felony. Unless specifically excluded by statute, felony convictions can be sentenced to either probation or to a prison sentence (559.012 RSMo.). In Missouri, a probation term is often accompanied with a suspended prison sentence. When probation is revoked, the prison sentence can be imposed or the offender can be sentenced under the 120-day statutes.

Recidivists

The recommended sentence for an offender sentenced as a persistent offender (Section 558.016 RSMo.) is the recommended sentence for the same offense group one felony class higher than the statutory defined felony class. The same offense group and level of severity applies. If the offense is Class A then the offense severity is increased by one level, unless the offense is High severity. The offense group DWI has recommended sentences for persistent offenders because there are no Class C DWI offenses upon which to calculate average sentences.

Attempt, Accessory or Conspiracy to Commit an Offense (inchoate)

Offenders convicted of the attempt or conspiracy are sentenced in accordance with Sections 564.011 and 564.016 RSMo. The sentencing recommendations include sentences at one felony class lower than the commitment of the offense for the same offense group and level of severity.

Sentencing Statutes

Section 558.011 RSMo. Authorized terms of imprisonment including conditional release:

| | |
|----------------|------------------------|
| Felony Class A | 10 to 30 years or life |
| Felony Class B | 5 to 15 years |
| Felony Class C | Not to exceed 7 years |
| Felony Class D | Not to exceed 4 years |

The probation term for a felony conviction is from one to five years (Section 559.016 RSMo.).

In cases of class C and D felonies, the court shall have discretion to imprison for a special term not to exceed one year in the county jail or other authorized penal institution. If the court imposes a sentence of imprisonment for a term longer than one year upon a person convicted of a class C or D felony, it shall commit the person to the custody of the Department of Corrections for a term of years not less than two years and not exceeding the maximum authorized term.

Section 558.016 RSMo. Extended Terms for Persistent Offenders (guilty of two or more felonies committed at different times) and dangerous offenders (guilty of a prior Class A or B felony and knowingly murdered or endangered the life or inflicted serious physical injury on another person):

Class A felony: any authorized sentence for a Class A felony
Class B felony: any sentence authorized for a Class A felony
Class C felony: any sentence authorized for a Class B felony
Class D felony: any sentence authorized for a Class C felony

Section 558.018 RSMo. Persistent Sexual Offender. A person guilty of forcible rape, statutory rape 1st degree, forcible sodomy, statutory sodomy 1st, or an attempt of any of the designated offenses shall be sentenced to not less than 30 years without probation or parole if the defendant has a prior finding of guilt for forcible rape, rape, statutory rape 1st degree, forcible sodomy, sodomy, or statutory sodomy 1st.

Section 558.018 RSMo. Predatory Sexual Offender. A person guilty of forcible rape, statutory rape 1st degree, forcible sodomy, statutory sodomy 1st or an attempt of any of the above designated offenses or child molestation 1st, class B felony or sexual abuse, class B, and i) who has a prior finding of guilt of one of the designated offenses or ii) has committed such an offense whether or not there was a conviction or iii) has committed the acts against multiple victims whether or not the defendant was charged is so designated. A predatory sex offender shall be sentenced for life with eligibility for parole. The sentence shall not be discharged. The minimum prison term, to be set by the courts, is 30 years, except when the defendant has previously pleaded guilty to child molestation 1st or sexual abuse when the minimum prison term is 15 years. Defendants without a prior finding of guilt for the designated offenses shall serve any authorized sentence if the defendant had not been sentenced as a predatory sexual offender.

Section 558.019 RSMo. Minimum Prison Terms for persons with prior prison commitments by the Department of Corrections {excluding regimented discipline (Section 217.378 RSMo.), 120-day programs (Section 559.115 RSMo.) or the long-term drug program (Section 217.362 RSMo.)} and serving a sentence other than in Chapter 195 RSMo. (drug offenses) are:

One prior commitment -- 40% of sentence (or until the age of 70 with 30% of the sentence served);

Two prior commitments -- 50% of sentence (or until the age of 70 with 40% of the sentence served);

Three or prior commitments -- 80% of sentence (or until the age of 70 with 40% of the sentence served);

Guilty of a dangerous felony -- 85% of sentence.

In addition, there are enhanced sentences and minimum prison terms for persistent and predatory sexual offenders (Section 558.018 RSMo.), prior and persistent domestic violence offenders (Section 565.063 RSMo.) and prior and persistent drug offenders (Sections 195.285 to 195.296 RSMo.).

Parole Restrictions

Armed Criminal Action (Section 571.015 RSMo.). For the first conviction, the minimum period is three years; for a second conviction, the minimum period is five years and for the third conviction, the minimum period is ten years.

Pharmacy Robbery in the first degree (Section 569.025 RSMo.). The minimum period is ten years.

Pharmacy Robbery in the second degree (Section 569.035 RSMo.). The minimum period is five years.

Capital Murder (Section 569.001 RSMo.). The minimum term is 50 years.

Sex offenses. Offenders imprisoned for sex offenses shall complete the Missouri Sex Offender Program before release to parole (Section 589.040 RSMo.).

Unlawful Use of a Weapon (Section 558.016 RSMo.). Prior offenders shall serve at least ten years. Persistent offenders are not eligible for probation, parole or conditional release (Section 571.030 RSMo.).

Prior or Persistent Domestic Violence Offender (Section 565.063 RSMo.) shall serve a minimum of six months before probation or parole.

Aggravated and Chronic DWI Offenders (577.023 RSMo.). Aggravated offenders must serve at least 60 days and chronic offenders at least two years before probation or parole.

High School Diploma/GED. The Board shall not order a parole unless the offender has obtained a high school diploma or its equivalent unless the offender has made a good-faith effort. (Section 217.690 RSMo.).

Non-Parole Offenses

Murder First Degree (Section 565.020 RSMo.), **Persistent Sexual Offender** (Section.558.018 RSMo.), **Tampering with Victim/ Witness** (Section 575.270 RSMo.), **Drug Trafficking Offenses** (Sections 195.222, 195.223, 195.291, 195.292, 195.295, 195.296 RSMo. in some circumstances.).

Dangerous Felonies.

The list of offenses defined as dangerous felonies on June 27, 2003 are:

Forcible Rape, Forcible Sodomy, Robbery 1st, Murder 2nd, Kidnapping, Arson 1st, Assault 1st, Attempted Forcible Rape with physical injury, Attempted Forcible Sodomy with physical injury, Assault of a Law Officer 1st, Domestic Assault 1st, Elder Abuse 1st,

Statutory Rape when the victim was less than 12, Statutory Sodomy when the victim was less than 12, and Abuse of a Child if the offense results in the death of the child.

Alternative Sentences

The expression “SHK/TRT” in the sentencing grids means any shock time, assessment or treatment, 120-day, 180-day or long-term drug program as specified in statute (Sections 559.115, 217.362, 217.364, 217.378 RSMo.).

Eligibility for shock or treatment programs

Excluded are persons who have been convicted of murder in the second degree pursuant to Section 565.021 RSMo; forcible rape pursuant to Section 566.030 RSMo; forcible sodomy pursuant to Section 566.060 RSMo; statutory rape in the first degree pursuant to Section 566.032 RSMo; statutory sodomy in the first degree pursuant to Section 566.062 RSMo; child molestation in the first degree pursuant to Section 566.067 RSMo, when classified as a class B felony; abuse of a child pursuant to Section 568.060 RSMo, when classified as a class A felony; an offender who has been found to be a predatory sexual offender pursuant to Section 558.018 RSMo; or any offense in which there exists a statutory prohibition against either probation or parole.

If the recommended sentence is an institutional shock or treatment program and the offender is ineligible or the offender has already been placed in a similar program within the last three years, then the recommended sentence shall be either a longer or a more intensive treatment program or a prison sentence. The recommended term sentence will normally be the minimum authorized sentence.

GLOSSARY OF TERMS

Community Structured Sentence (CSS). A community structured sentence indicates a higher level of supervision than probation. The supervision can include a requirement to complete either a substance abuse or other rehabilitative program. The range and availability of community structured sentences are described in Community Structured Sentences, page 44.

Felony Class. The felony class as defined in statute. For the purposes of the Recommended Sentences most unclassified felony offenses have been converted to a class (A to D) based upon an analysis of average sentencing from 1999 to 2005 (May). The exception is Armed Criminal Action. The felony class association for other unclassified felony offenses is shown after the listing of the recommended sentences. . Offenses with an average prison sentence of 10 years or more are assigned Class A, average sentences from 8 to 9 years are assigned Class B, offenses with an average sentence from 5 to 7 years are assigned class C and sentences 4 years or less are assigned class D. The offenses are included in the appropriate offense and felony class group.

Enhanced Sentences

The recommended sentence for an offender sentenced as a persistent offender (Section 558.016 RSMo.) is the recommended sentence for the same offense group one felony class higher than the statutory defined felony class. The same offense group and level of severity applies. If the offense is Class A then the offense severity is increased by one level, unless the offense is High severity. The offense group DWI has specific recommended sentences for persistent offenders because there are no Class C DWI offenses upon which to calculate average sentences.

Inchoate Offenses

Convictions of the attempt, accessory or conspiracy are made at one felony class lower than the commitment of the offenses (Chapter 564) for the same offense group and level of offense severity.

Mitigating, Presumptive and Aggravating. An indicator of whether special circumstances were present either in the commission of the offense or in the defendant's arrest or during pre-sentencing.

Offense Group. Five groups of offenses that have similar sentencing.

Offense Severity. The separation of offense groups into one of the three levels to reflect the severity of sentencing practice. Not all felony class and offense groups require three levels of offense severity.

Offender Risk. A quantitative assessment of the risk of a person committing further crimes or violating the conditions of supervision. It is based upon a validated assessment of risk by the Board of Probation and Parole and it includes both prior criminal history

and other behavioral and demographic factors. The risk score has five levels from Good, the lowest level of risk, to Poor, the highest level of risk.

Percent Prison Disposition. This is the percent of convictions supervised by the Department of Corrections that received a prison sentence. Offenders who received probation or were sentenced under the 120-day or long-term drug statutes are not counted as prison sentences.

Prison Sentence. This is the average sentence of those persons who received a prison sentence. It does not include the prison sentence when the prison sentence was suspended or when the offender was sentenced under Sections 559.115 or 217.262 RSMo. The minimum prison sentence in the Recommended Sentences is shown as two years to reflect the sentencing of offenders when committed to the Department of Corrections. Statute 558.011 RSMo. Section 2 requires offenders sentenced to more than one year to serve a sentence of at least two years with the Department of Corrections.

Prior Criminal History Level. The assessment of prior criminal history includes felony and misdemeanor findings of guilt and jail sentences of 30 days or more for local ordinances. The assessment is described in detail in appendix B, page 72.

Probation. This designates supervision by the Department of Corrections while the offender is serving a term of probation. For the purposes of the recommended sentences, probation includes a pre-sentence drug court and suspended and executed probation sentences.

SHK/TRT. This disposition requires a short prison stay under the 120-day or long-term drug statutes. If the offender is successful, the offender is released to probation under court jurisdiction. If the offender is ineligible for a shock or treatment program, then the recommended sentence is a prison term for the lowest sentence allowed for the felony class (558.011 RSMo.).

HOW TO USE THE RECOMMENDED SENTENCES MATRICES

Example 1

A person is convicted of Burglary 2nd degree. The sentence assessment report contains the following information about the recommended sentence:

Prior Criminal History. The risk assessment lists the scoring for each of the risk variables and indicates that the Prior Criminal History is Level II.

Burglary 2nd is a Class C, non-violent offense that has been given an offense severity level of HIGH (most severe).

From the circumstances of the offense, the court determines that there were no mitigating or aggravating conditions.

The recommended sentence is a community-structured sentence.

If the Prior Criminal History was Level V, then the recommended presumptive sentence would have been a prison sentence of 6 years. If offender risk was **Poor**, the Board of Probation and Parole Guideline prison term before parole is 36 months (50%) and the Board guideline range is from 32 months to 48 months (Appendix E, page 79).

Example 2

A person is convicted of Robbery 1st degree. The sentence assessment report contains the following information about the recommended sentence:

Prior Criminal History. The sentence assessment report indicates that the offender is Level I.

Robbery 1st is a class A, violent, level of MEDIUM.

If the conditions of the offense are presumptive, then the recommended sentence is 10 years.

If there were mitigating circumstances then the recommended sentence is a community-structured sentence.

If the offender is sentenced to prison, then the offender will serve 85% before becoming eligible for parole because Robbery 1st is a dangerous felony.

If the offender was convicted of attempted Robbery 1st degree, then the offense severity is class B, violent, level of MEDIUM and the presumptive recommended sentence for a Prior Criminal History is a community-structured sentence.

If there were aggravating circumstances, then the recommended sentence would be five years.

Because the offender would not be sentenced as a dangerous felon, the Board of Probation and Parole guideline prison term for an Offender with offender risk of **Above Average** would be 27 months (45%) a range from 24 months to 30 months.

If an offender has a minimum mandatory prison term, then the guideline term would reflect that statutory requirement if the prison term was longer than the guideline term.

If an offense is not listed in the level of offense severity in the recommended sentences the severity level will be MEDIUM.

See Sentencing Assessment Report, Page 48, for an example of a completed report.

RECOMMENDED SENTENCE MATRICES

Violent Offenses

| Felony Class | | Prior Criminal History | | | | |
|--------------|------------------|----------------------------|-----------|-----------|----------|---------|
| | | Level I | Level II | Level III | Level IV | Level V |
| Class A | Offense Severity | <i>Data 2004</i> | | | | |
| | | Percent Prison Disposition | 79.3% | 92.0% | 89.2% | 97.1% |
| | | Ave. Prison Sentence | 16.8 | 17.2 | 17.7 | 17.6 |
| | | High | | | | |
| | | Mitigating | CSS | 10 | 15 | 20 |
| | | Presumptive | 10 | 15 | 20 | 30 |
| | | Aggravating | 15 | 20 | 25 | 30 |
| | | Medium | | | | |
| | | Mitigating | CSS | Shk/Trt | 10 | 15 |
| | | Presumptive | 10 | 12 | 15 | 25 |
| | | Aggravating | 14 | 16 | 20 | 30 |
| | | Low | | | | |
| | | Mitigating | Probation | Shk/Trt | 10 | 12 |
| | | Presumptive | Shk/Trt | 10 | 12 | 15 |
| | | Aggravating | 12 | 14 | 15 | 20 |
| | | <i>Data 2004</i> | | | | |
| | | Percent Prison Disposition | 49.5% | 64.1% | 76.8% | 76.1% |
| | | Ave. Prison Sentence | 8.5 | 9.9 | 8.6 | 8.9 |
| | | High | | | | |
| Class B | Offense Severity | Mitigating | CSS | Shk/Trt | 6 | 8 |
| | | Presumptive | Shk/Trt | 6 | 8 | 10 |
| | | Aggravating | 6 | 8 | 10 | 12 |
| | | Medium | | | | |
| | | Mitigating | Probation | CSS | Shk/Trt | 7 |
| | | Presumptive | CSS | Shk/Trt | 7 | 9 |
| | | Aggravating | 5 | 7 | 9 | 11 |
| | | Low | | | | |
| | | Mitigating | Probation | CSS | Shk/Trt | 5 |
| | | Presumptive | CSS | Shk/Trt | 5 | 7 |
| | | Aggravating | 5 | 5 | 7 | 10 |
| | | <i>Data 2004</i> | | | | |
| | | Percent Prison Disposition | 22.0% | 32.6% | 56.2% | 54.0% |
| | | Ave. Prison Sentence | 5.0 | 5.2 | 5.1 | 5.6 |
| | | High | | | | |
| Class C | Offense Severity | Mitigating | Probation | Probation | Shk/Trt | 3 |
| | | Presumptive | CSS | CSS | 4 | 5 |
| | | Aggravating | 3 | 4 | 5 | 7 |
| | | Medium | | | | |
| | | Mitigating | Probation | Probation | CSS | Shk/Trt |
| | | Presumptive | CSS | CSS | Shk/Trt | 4 |
| | | Aggravating | 3 | 3 | 4 | 5 |
| | | Low | | | | |
| | | Mitigating | Probation | Probation | CSS | Shk/Trt |
| | | Presumptive | Probation | CSS | Shk/Trt | 3 |
| | | Aggravating | 3 | 3 | 3 | 4 |
| | | High | | | | |
| | | Mitigating | Probation | Probation | CSS | Shk/Trt |
| | | Presumptive | CSS | CSS | 3 | 4 |
| | | Aggravating | 3 | 3 | 3 | 6 |

| Felony Class | Prior Criminal History | | | | |
|--------------------------------|-----------------------------------|-------------|--------------|--------------|--------------|
| | Level I | Level II | Level III | Level IV | Level V |
| <i>Data 2004</i> | | | | | |
| Class D | <i>Percent Prison Disposition</i> | 8.5% 3.5 | 25.0% 2.0 | 53.8% 2.9 | 50.0% 4.5 |
| Offense Severity | High | | | | |
| | Mitigating | Probation | Probation | CSS | Shk/Trt |
| | Presumptive | CSS | CSS | Shk/Trt | 3 |
| | Aggravating | 2 | 2 | 3 | 4 |
| | Medium | | | | |
| | Mitigating | Probation | Probation | CSS | Shk/Trt |
| | Presumptive | CSS | CSS | Shk/Trt | 2 |
| | Aggravating | 2 | 2 | 2 | 3 |
| | Low | | | | |
| Class U | Mitigating | Probation | Probation | CSS | Shk/Trt |
| | Presumptive | CSS | CSS | Shk/Trt | 2 |
| | Aggravating | 2 | 2 | 2 | 3 |
| <i>Armed Criminal Action</i> | | | | | |
| <i>Offense Severity Medium</i> | | | | | |
| | Presumptive | 5 | 7 | 9 | 12 |
| | | | | | 15 |

Aggravating Factors

Serious Aggravating Factors

- The offender's conduct was especially heinous, atrocious or cruel.
- The defendant knowingly created a great risk of death or serious physical injury to more than one person.
- The defendant used a dangerous or deadly weapon during the commission of the offense or during the arrest and has not been convicted of an offense that includes the use of a dangerous or deadly weapon.
- Serious aggravating factors shall not be offset by mitigating factors

Other Aggravating Factors

- The defendant was armed with a dangerous or deadly weapon during the commission of the offense or during the arrest and has not been convicted of an offense that includes the possession of a dangerous or deadly weapon.
- The defendant caused severe financial loss to the victim of the offense. There has been loss of business, employment or serious financial loss when the value of the loss is not included in the offense for which the defendant has been convicted.
- The defendant made, or expected to make, a substantial financial gain from the commission of the offense.
- The defendant caused severe physical or emotional trauma to the victim of the offense. The victim has required medical or mental health intervention and the impact of the trauma is not included in the offense for which the defendant has been convicted.
- The defendant committed the offense while under supervision by a federal, state or local authority on another charge.
- Any other aggravating factors reasonably related to the purposes of sentencing, as specified by the court or by the sentence assessment report

Mitigating Factors

- The defendant has made or is making restitution to the victim.
- For offenses related to drug or alcohol dependency, the offender has agreed to enter or has entered a drug or alcohol treatment program and there is a plan for continuing relapse prevention. Not to apply if the sentence involves placement in a drug or alcohol treatment program.
- The defendant used caution to avoid risk or injury to others and caused no injury, financial loss or trauma to the victim. Not to apply when the offender has been convicted of the attempt of the offense.
- The defendant has cooperated with law enforcement.
- The defendant has had a substantial period of crime-free living prior to the commission of the offense (five years or more).
- Any other mitigating factors reasonably related to the purposes of sentencing, as specified by the court or by the sentence assessment report.

OFFENSE SEVERITY

Class A Violent

| Offense | Description | RSMO Statute | Offense Severity | Sentence Count | of which Prison | Ave. Prison Sent. Yrs. | Ave. Percent Prison Disp. |
|---------|--|--------------|------------------|----------------|-----------------|------------------------|---------------------------|
| 10021 | Murder 1St Degree | 565.020 | High | 303 | 303 | 30.0 | 100% |
| 10031 | Murder 2Nd Degree | 565.021 | High | 672 | 666 | 23.2 | 99% |
| 12010 | Robbery 1St Degree | 569.020 | Med | 1,350 | 996 | 14.8 | 74% |
| 12035 | Pharmacy Robbery First Degree | 569.025 | Med | 8 | 7 | 17.1 | 88% |
| 13025 | Domestic Assault-1St Degree Persistent Domestic Violence Offender | 565.072 | Med | 2 | 1 | 25.0 | 50% |
| 13100 | Assault Of Law Enforcement Officer First Degree | 565.081 | Med | 65 | 44 | 18.4 | 68% |
| 16010 | Kidnapping | 565.110 | Med | 55 | 40 | 17.0 | 73% |
| 31151 | Dischrg Frarm At/Or Frm A Motor Veh Or Shoot At Pers,Veh,Build-Inj | 571.030 | Med | 4 | 4 | 8.8 | 100% |
| 13009 | Domestic Assault-1St Degree Serious Physical Injury | 565.072 | Low | 27 | 16 | 15.6 | 59% |
| 13011 | Assault 1St Degree - Serious Physical Injury | 565.050 | Low | 375 | 243 | 17.0 | 65% |
| 13027 | Domestic Assault-1St Degree- Prior Domestic Violence Offender | 565.072 | Low | 3 | 2 | 10.0 | 67% |
| 13028 | Domestic Assault-Second/Deg Persistent Domestic Assault Offender | 565.073 | Low | 1 | - | - | 0% |
| 13060 | Assault With Intent To Commit Bus Hijack Ing With Weapon | 578.305 | Low | 2 | - | - | 0% |
| 26165 | Elder Abuse 1St Degree | 565.180 | Low | 2 | 1 | 15.0 | 50% |
| 36006 | Knowingly Infect Another W/Hiv Being Blood/Blood Produce,Organ | 191.677 | Low | 1 | - | - | 0% |
| 36007 | Recklessly Infect Another W/Hiv When Actor Knowingly Infected | 191.677 | Low | 1 | - | - | 0% |
| 36322 | Elder Abuse 1St Degree | 565.180 | Low | 6 | 1 | 15.0 | 17% |

Note: Although Murder 1st degree is excluded from the Recommended Sentences, Attempted Murder 1st degree is a class B Violent offense with High severity.

Class B Violent

| Offense | Description | RSMO Statute | Offense Severity | Sentence Count | of which Prison | Ave. Prison Sent. Yrs. | Ave. Percent Prison Disp. |
|---------|--|--------------|------------------|----------------|-----------------|------------------------|---------------------------|
| 10041 | Voluntary Manslaughter | 565.023 | High | 152 | 136 | 11.6 | 90% |
| 16020 | Kidnapping - Facilitating A Fel/Flight Thereafter-Inflict Injury-Terrorizi | 565.110 | High | 205 | 153 | 11.9 | 75% |
| 31154 | Aid/Abet A Person Discharg/Shooting A Firearm At Or From Motor Veh | 571.030 | High | 2 | 2 | 10.0 | 100% |
| 31180 | Gun,Knife,Weapon Or Other Article That M Ay Be Used To Endanger | 217.360 | High | 24 | 23 | 8.4 | 96% |
| 36009 | Recklessly Risk Infect Of An- Other W/Hiv When Actor Knows | 191.677 | High | 4 | 3 | 11.7 | 75% |
| 12020 | Robbery 2Nd Degree | 569.030 | Med | 1,931 | 998 | 9.1 | 52% |
| 12045 | Pharmacy Robbery Second Degree | 569.035 | Med | 7 | 4 | 10.5 | 57% |
| 13020 | Assault 1St Degree | 565.050 | Med | 656 | 349 | 10.0 | 53% |
| 13071 | Violence To An Employee Of Dept Of Corr Or To Inmate By Inmate | 217.385 | Med | 102 | 100 | 7.3 | 98% |
| 13115 | Assault On A Law Enforcement While Intox Alcohol/Drug/Vehicular | 565.082 | Med | 14 | 7 | 8.6 | 50% |
| 31152 | Dischrg/Shoot Frarm At/Or Frm A Mtr Veh Or Shoot At Pers,Veh,Build | 571.030 | Med | 21 | 9 | 10.0 | 43% |
| 31195 | Dan/Weapon In A Correction Facility That Will Endanger Prisoner Or E | 221.111 | Med | 15 | 11 | 7.6 | 73% |
| 13015 | Domestic Assault 1St Degree | 565.072 | Low | 106 | 32 | 8.5 | 30% |
| 13032 | Domestic Assault-2Nd Degree- Prior Domestic Assault Offender | 565.073 | Low | 3 | 1 | 5.0 | 33% |
| 13110 | Assault On Law Enforcement Officer (Reckless/Serious Physical Injury) | 565.082 | Low | 393 | 188 | 8.1 | 48% |
| 13140 | Assault/Attempt Assault On L Enf Off Deadly Weapon/Dangerous Instru | 565.082 | Low | 5 | 2 | 8.5 | 40% |
| 17010 | Arson 1St Degree | 569.040 | Low | 103 | 30 | 7.9 | 29% |
| 17022 | Arson 2Nd Degree Causing Serious Physical Injury Or Death | 569.050 | Low | 4 | - | - | 0% |
| 26170 | Elder Abuse 2Nd Degree | 565.182 | Low | 2 | - | - | 0% |
| 28100 | Aiding Escape Of Prisoner By Deadly Weapon Or Dangerous Instrumen | 575.230 | Low | 1 | - | - | 0% |
| 31182 | Del/Attemp To Deliver Poss/Dep/Conc Gun Kni/Weap/Other At Corr/Fa | 217.360 | Low | 4 | 2 | 7.5 | 50% |
| 36324 | Elder Abuse 2Nd Degree | 565.182 | Low | 1 | - | - | 0% |

Class C Violent

| Offense | Description | RSMO Statute | Offense Severity | Sentence Count | of which Prison | Ave. Prison Sent. Yrs. | Ave. Percent Prison Disp. |
|---------|---|--------------|------------------|----------------|-----------------|------------------------|---------------------------|
| 10051 | Involuntary Manslaughter-1St Degree | 565.024 | High | 339 | 204 | 6.4 | 60% |
| 10053 | Involuntary Manslaughter Vehicular-Intoxicated | 565.024 | High | 150 | 71 | 6.9 | 47% |
| 13137 | Assault/Att Assault On Emerg Pers Other Than Deadly Weop/Dang Inst | 565.082 | High | 1 | 1 | 5.0 | 100% |
| 13150 | Asslt On Leo (Crim Negligence Create Risk Of Death Or Ser/Physical Inj) | 565.082 | High | 5 | 3 | 6.0 | 60% |
| 16030 | Felonious Restraint | 565.120 | High | 474 | 251 | 5.8 | 53% |
| 13031 | Assault 2Nd Degree | 565.060 | Med | 4,253 | 1,293 | 5.2 | 30% |
| 28055 | Escape From Confinement By Force | 575.210 | Med | 5 | 4 | 4.5 | 80% |
| 10054 | Involuntary Manslaughter-Water Craft | 306.111 | Low | 1 | - | - | 0% |
| 13029 | Domestic Assault 2Nd Degree | 565.073 | Low | 1,630 | 378 | 4.4 | 23% |
| 13033 | Assault 2Nd Degree - Vehicular Injury | 565.060 | Low | 573 | 95 | 4.7 | 17% |
| 13070 | Assault With Intent To Commit Bus Hijack | 578.305 | Low | 1 | - | - | 0% |
| 13075 | Offender Abuse By An Employee Of Dept Of Corrections | 217.405 | Low | 1 | - | - | 0% |
| 13080 | Violence Or Injury To Persons Or Property By An Inmate | 217.385 | Low | 1 | - | - | 0% |
| 13090 | Unlawful Endangerment Of Another In Protecting The Prod Of Controll | 565.065 | Low | 2 | - | - | 0% |
| 13130 | Tampering With Judicial Officer | 565.084 | Low | 1 | - | - | 0% |
| 13142 | Asslt/Atte Asslt On Leo By Means Other Deadly/Weap/D Instru/Physica | 565.082 | Low | 5 | 2 | 4.5 | 40% |
| 13146 | Asslt/Leo (Crim Negl-Means Of A Dead Weapon/Dangerous Instrument | 565.082 | Low | 1 | - | - | 0% |
| 13152 | Asslt/Leo (Purposely/Recklessly Place Person/Appreh/Immed Ser/Physic | 565.082 | Low | 1 | - | - | 0% |
| 34210 | Aggravated Stalking-2Nd Offense | 565.225 | Low | 3 | 1 | 4.0 | 33% |

Class D Violent

| Offense | Description | RSMO Statute | Offense Severity | Sentence Count | of which Prison | Ave. Prison Sent. Yrs. | Ave. Percent Prison Disp. |
|---------|--|--------------|------------------|----------------|-----------------|------------------------|---------------------------|
| 10052 | Involuntary Manslaughter 2Nd Degree | 565.024 | High | 68 | 26 | 4.4 | 38% |
| 16040 | False Imprisonment-Removed From State | 565.130 | High | 4 | 2 | 5.0 | 50% |
| 16090 | Child Abduction | 565.156 | High | 23 | 2 | 17.5 | 9% |
| 58020 | Mak Terrorist/Threat W Reckless Disr Of Risk/Caus Evac/Quarant/Clos | 574.115 | High | 2 | 1 | 4.0 | 50% |
| 13017 | Domestic Assault 3Rd Degree 3Rd/Subsequent Offense | 565.074 | Med | 84 | 10 | 2.7 | 12% |
| 13039 | Assault 3Rd Degree With Physical Injury 3Rd Subsequent Offense | 565.070 | Med | 52 | 11 | 2.7 | 21% |
| 16060 | Interference With Custody | 565.150 | Med | 11 | 2 | 3.0 | 18% |
| 16080 | Parental Kidnapping | 565.153 | Med | 18 | 4 | 4.0 | 22% |
| 34220 | Aggravated Stalking-1St Offense Or Stalking 2Nd Offense | 565.225 | Med | 62 | 11 | 3.2 | 18% |
| 13030 | Assault 2Nd Degree | 565.060 | Low | 13 | - | - | 0% |
| 13034 | Assault Watercraft 2Nd Degree | 306.111 | Low | 2 | - | - | 0% |
| 13045 | Assault Motivated By Discrimination 3Rd Degree | 557.035 | Low | 4 | - | - | 0% |
| 13055 | Assault While On School Property | 565.075 | Low | 39 | 2 | 2.5 | 5% |
| 34055 | Harassment Motivated By Discrimi- Nation Frighten/Disturb Anoth Pers | 557.035 | Low | 1 | - | - | 0% |
| 34074 | Make A Terrorist Threat W Reck- Less Disregard Of Causing Evac/Clos | 574.115 | Low | 2 | - | - | 0% |
| 34110 | Ethnic Intimidation 2Nd Degree | 574.093 | Low | 2 | - | - | 0% |
| 55130 | Assault On Federal Officer | 18U.SC1 | Low | 1 | - | - | 0% |

Unclassed Violent

| Offense | Description | RSMO Statute | Offense Severity | Sentence Count | of which Prison | Ave. Prison Sent. Yrs. | Ave. Percent Prison Disp. |
|---------|-----------------------|--------------|------------------|----------------|-----------------|------------------------|---------------------------|
| 31010 | Armed Criminal Action | 571.015 | Med | 133 | 133 | 5.9 | 100% |

Any unlisted offense will have Medium severity.

Recommended Sentences for Sex and Child Abuse Offenses

| Felony Class | Offense Severity | Prior Criminal History | | | | |
|--------------|-----------------------------------|------------------------|-----------|-----------|----------|---------|
| | | Level I | Level II | Level III | Level IV | Level V |
| Class A | <i>Data 2004</i> | | | | | |
| | <i>Percent Prison Disposition</i> | 67.0% | 89.3% | 96.2% | 100.0% | 100.0% |
| | <i>Ave. Prison Sentence</i> | 15.3 | 13.0 | 15.5 | 18.2 | 17.2 |
| | High | | | | | |
| | Mitigating | CSS | 10 | 15 | 20 | 25 |
| | Presumptive | 12 | 15 | 20 | 25 | 30 |
| | Aggravating | 15 | 20 | 25 | 30 | 30 |
| | Medium | | | | | |
| | Mitigating | CSS | CSS | 10 | 15 | 20 |
| | Presumptive | 10 | 12 | 15 | 20 | 25 |
| | Aggravating | 12 | 15 | 20 | 25 | 30 |
| | Low | | | | | |
| | Mitigating | CSS | CSS | 10 | 12 | 15 |
| | Presumptive | CSS | 10 | 12 | 15 | 20 |
| | Aggravating | 10 | 12 | 15 | 20 | 25 |
| Class B | <i>Data 2004</i> | | | | | |
| | <i>Percent Prison Disposition</i> | 59.6% | 94.7% | 81.8% | 100.0% | 100.0% |
| | <i>Ave. Prison Sentence</i> | 9.0 | 8.5 | 7.7 | 14.5 | 12.0 |
| | High | | | | | |
| | Mitigating | CSS | Shk/Trt | 7 | 8 | 10 |
| | Presumptive | Shk/Trt | 7 | 8 | 10 | 15 |
| | Aggravating | 7 | 8 | 10 | 15 | 15 |
| | Medium | | | | | |
| | Mitigating | CSS | Shk/Trt | 6 | 7 | 8 |
| | Presumptive | Shk/Trt | 5 | 7 | 8 | 10 |
| | Aggravating | 5 | 7 | 8 | 10 | 15 |
| | Low | | | | | |
| | Mitigating | Probation | CSS | 5 | 6 | 7 |
| | Presumptive | CSS | Shk/Trt | 6 | 7 | 8 |
| | Aggravating | 5 | 6 | 7 | 8 | 10 |
| Class C | <i>Data 2004</i> | | | | | |
| | <i>Percent Prison Disposition</i> | 29.4% | 48.1% | 71.9% | 50.0% | 92.3% |
| | <i>Ave. Sentence</i> | 5.2 | 4.9 | 5.0 | 4.6 | 4.8 |
| | High | | | | | |
| | Mitigating | Probation | CSS | Shk/Trt | 3 | 5 |
| | Presumptive | CSS | CSS | 4 | 5 | 6 |
| | Aggravating | 3 | 4 | 5 | 6 | 7 |
| | Medium | | | | | |
| | Mitigating | Probation | Probation | Shk/Trt | 2 | 4 |
| | Presumptive | CSS | CSS | 3 | 4 | 5 |
| | Aggravating | 3 | 3 | 4 | 5 | 6 |
| | Low | | | | | |
| | Mitigating | Probation | Probation | Shk/Trt | 2 | 3 |
| | Presumptive | CSS | CSS | 2 | 3 | 4 |
| | Aggravating | 3 | 3 | 3 | 4 | 5 |

| Felony Class | Prior Criminal History | | | | |
|----------------|-----------------------------------|-----------|-----------|----------|---------|
| | Level I | Level II | Level III | Level IV | Level V |
| Class D | <i>Data 2004</i> | | | | |
| | <i>Percent Prison Disposition</i> | 18.6% | 41.7% | 42.9% | 60.0% |
| | <i>Ave. Prison Sentence</i> | 3.7 | 3.8 | 3.5 | 3.7 |
| | High | | | | |
| | Mitigating | Probation | Probation | CSS | Shk/Trt |
| | Presumptive | CSS | CSS | Shk/Trt | 4 |
| | Aggravating | 2 | 2 | 3 | 4 |
| | Medium | | | | |
| | Mitigating | Probation | Probation | CSS | Shk/Trt |
| | Presumptive | CSS | CSS | Shk/Trt | 2 |
| | Aggravating | 2 | 2 | 2 | 3 |
| | Low | | | | |
| | Mitigating | Probation | Probation | CSS | Shk/Trt |
| | Presumptive | Probation | CSS | Shk/Trt | 2 |
| | Aggravating | 2 | 2 | 2 | 2 |

Aggravating Factors

Serious Aggravating Factors

- The offender's conduct was especially heinous, atrocious or cruel.
- The defendant knowingly created a great risk of death or serious physical injury to more than one person.
- The defendant used a dangerous or deadly weapon during the commission of the offense or during the arrest and has not been convicted of an offense that includes the use of a dangerous or deadly weapon.
- The offender has a prior felony conviction under Chapter 566 and the statute of the offense does not include the prior conviction.
- Serious aggravating factors shall not be offset by mitigating factors.

Other Aggravating Factors

- The defendant was armed with a dangerous or deadly weapon during the commission of the offense or during the arrest and has not been convicted of an offense that includes the possession of a dangerous or deadly weapon.
- The defendant caused severe financial loss to the victim of the offense. There has been loss of business, employment or serious financial loss when the value of the loss is not included in the offense for which the defendant has been convicted.
- The defendant caused severe physical or emotional trauma to the victim of the offense. The victim has required medical or mental health intervention and the impact of the trauma is not included in the offense for which the defendant has been convicted.
- The defendant committed the offense while under supervision by a federal, state or local authority on another charge.
- Any other aggravating factors reasonably related to the purposes of sentencing, as specified by the court or by the sentence assessment report.

Mitigating Factors

- The defendant has made or is making restitution to the victim.
- For offenses related to drug or alcohol dependency, the offender has agreed to enter or has entered a drug or alcohol treatment program and there is a plan for continuing relapse prevention. Not to apply if the sentence involves placement in a drug or alcohol treatment program.
- The defendant used caution to avoid risk or injury to others and caused no injury, financial loss or trauma to the victim. Not to apply when the offender has been convicted of the attempt of the offense.
- The defendant has cooperated with law enforcement.
- The defendant has had a substantial period of crime-free living prior to the commission of the offense (five years or more).
- Any other mitigating factors reasonably related to the purposes of sentencing, as specified by the court or by the sentence assessment report

OFFENSE SEVERITY

Class A Sex and Child Abuse

| Offense | Description | RSMO Statute | Offense Severity | Sentence Count | of which Prison | Ave. Prison Sent. Yrs. | Ave. Percent Prison Disp. |
|---------|--|--------------|------------------|----------------|-----------------|------------------------|---------------------------|
| 11005 | Force Rape-Sex Interc By Force Serious Inj/Displays Dead Weapon | 566.030 | High | 6 | 6 | 18.7 | 100% |
| 11010 | Forcible Rape With Weapon Or Physical Injury | 566.030 | High | 73 | 68 | 18.4 | 93% |
| 11015 | Forcible Rape | 566.030 | High | 58 | 52 | 19.5 | 90% |
| 11070 | Sodomy - Physical Injury Or With Weapon | 566.060 | High | 7 | 7 | 13.9 | 100% |
| 11071 | Forcible Sodomy-With Deadly Weapon Or Serious Physical Injury | 566.060 | High | 11 | 11 | 18.4 | 100% |
| 11082 | Forbicle Sodomy Deviate Sex Intercourse Injury/Weapon | 566.060 | High | 1 | 1 | 30.0 | 100% |
| 11084 | Forcible Sodomy-Deviate Sexual Intercourse By Forcible Compul | 566.060 | High | 15 | 10 | 19.0 | 67% |
| 22045 | Sexual Exploitation Of A Minor Child | 573.023 | High | 4 | 4 | 15.0 | 100% |
| 26054 | Abuse Of Child-Resulting In Death | 568.060 | High | 14 | 13 | 18.5 | 93% |
| 11021 | Statutory Rape-1St Degree | 566.032 | Med | 206 | 133 | 15.2 | 65% |
| 11075 | Forcible Sodomy | 566.060 | Med | 58 | 45 | 16.6 | 78% |
| 11076 | Statutory Sodomy 1St Degree | 566.062 | Med | 375 | 275 | 17.1 | 73% |
| 11088 | Attempted Forcible Sodomy-Attempt Deviate Sexual Interc By Force | 566.060 | Med | 3 | 1 | 28.0 | 33% |
| 64001 | Sexual Exploitation Of A Minor Child | 573.023 | Med | 2 | 2 | 11.0 | 100% |
| 11008 | Forcible Rape-Sexual Inter- Course By Forcible Compulsion | 566.030 | Low | 23 | 13 | 14.5 | 57% |
| 11012 | Attempt Forcible Rape-Attempt Sexual Intercourse/Force Compul | 566.030 | Low | 5 | 2 | 11.5 | 40% |
| 11025 | Statutory Rape-1St Deg Sex Inter Course With A Pers Less Than 14 | 566.032 | Low | 124 | 72 | 11.4 | 58% |
| 11095 | Stat Sodomy-1St-Deviate Sex Inter Course W/Pers Less 14 Ser/Inj | 566.062 | Low | 26 | 14 | 17.6 | 54% |
| 11097 | Stat Sodomy-1St Deg-Deviate Sex Interc W/Pers Less Than 14 | 566.062 | Low | 124 | 89 | 12.7 | 72% |
| 22102 | Child Molest-1St-Prior/Deadly Weap/Ser Inj/Ritual Or Ceremony | 566.067 | Low | 10 | 6 | 17.8 | 60% |

Class B Sex and Child Abuse

| Offense | Description | RSMO Statute | Offense Severity | Sentence Count | of which Prison | Ave. Prison Sent. Yrs. | Ave. Percent Prison Disp. |
|---------|---|--------------|------------------|----------------|-----------------|------------------------|---------------------------|
| 22100 | Child Molestation-1St Deg-Dispaly Deadly Weapon/Serious Injury | 566.067 | High | 19 | 15 | 9.3 | 79% |
| 26055 | Abuse Of Child - Serious Emotional Injury | 568.060 | High | 20 | 16 | 10.8 | 80% |
| 26071 | Child Molest-1St Degree-Displays Deadly Weapon/Serious Phys Injury | 566.067 | High | 1 | 1 | 10.0 | 100% |
| 11032 | Stat Rape-1St Deg-Sex Intercourse Less Than 14 Injury/Deadly Weapon | 566.032 | Med | 10 | 6 | 9.3 | 60% |
| 22107 | Child Molestation-1St Degree | 566.067 | Med | 265 | 162 | 9.0 | 61% |
| 22200 | Use Of Child In Sexual Performance- Serious Emotional Injury | 568.080 | Med | 3 | 1 | 14.0 | 33% |
| 25050 | Promoting Child Pornography 1St Degree | 573.025 | Med | 10 | 6 | 8.7 | 60% |
| 64010 | Ent/Child/Prev Plead Guilt Or F Guilt Of Viol Sec 566.151,568.045,568 | 566.151 | Med | 1 | 1 | 7.0 | 100% |
| 22021 | Sex Abuse-Displays Deadly Weapon Or Serious Physical Injury | 566.100 | Low | 16 | 2 | 8.0 | 13% |
| 22055 | Sexual Exploitation Of A Child | 573.023 | Low | 7 | 3 | 9.3 | 43% |
| 26021 | Abandonment Of Child 1St Degree | 568.030 | Low | 3 | - | - | 0% |
| 26048 | Endangering Welfare Of Child In Ritual Ceremony/1St Deg/2Nd/Subsec | 568.045 | Low | 2 | - | - | 0% |
| 26091 | Use Of Child In Sexual Performance-- Serious Emotional Injury | 568.080 | Low | 2 | 1 | 8.0 | 50% |
| 64005 | Sexual Exploitation Of A Minor | 573.023 | Low | 2 | - | - | 0% |

Class C Sex and Child Abuse

| Offense | Description | RSMO Statute | Offense Severity | Sentence Count | of which Prison | Ave. Prison Sent. Yrs. | Ave. Percent Prison Disp. |
|---------|--|--------------|------------------|----------------|-----------------|------------------------|---------------------------|
| 11016 | Attempt Force Rape-Attempt Sex Interc By Force Serious Injur | 566.030 | High | 2 | 2 | 6.0 | 100% |
| 11050 | Sexual Assault 2Nd Degree - Displays A Deadly Weapon Or Serious Ph | 566.050 | High | 1 | 1 | 7.0 | 100% |
| 22105 | Child Molestation-1St Degree | 566.067 | High | 287 | 130 | 5.9 | 45% |
| 22206 | Promoting A Sexual Performance By A Child | 568.090 | High | 3 | 2 | 7.0 | 67% |
| 26072 | Child Molestation 1St Degree | 566.067 | High | 6 | 2 | 7.0 | 33% |
| 11022 | Statutory Rape-2Nd Degree | 566.034 | Med | 679 | 278 | 5.5 | 41% |
| 11077 | Statutory Sodomy-2Nd Degree | 566.064 | Med | 530 | 248 | 5.6 | 47% |
| 11100 | Deviate Sexual Assault 1St Degree | 566.070 | Med | 136 | 52 | 5.7 | 38% |
| 22022 | Sexual Abuse | 566.100 | Med | 91 | 30 | 5.7 | 33% |
| 22330 | Fail/Comp/Sub Offend/Reg Form With- Chief/Leo/Req Und 589.425(1) | 589.425 | Med | 2 | 2 | 2.5 | 100% |
| 25060 | Promoting Child Pornography 2Nd Degree | 573.035 | Med | 6 | 4 | 4.8 | 67% |
| 26100 | Use Of Child In Sexual Performance | 568.080 | Med | 1 | 1 | 3.0 | 100% |
| 64015 | Enticement Of/Child/Actor 21 Yrs Of Age Or Older/Child Is Less Than | 566.151 | Med | 2 | 1 | 4.0 | 50% |
| 11040 | Sexual Assault 1St Degree | 566.040 | Low | 186 | 72 | 5.0 | 39% |
| 22020 | Sexual Abuse 1St Degree - Physical Harm | 566.100 | Low | 1 | - | - | 0% |
| 22035 | Sexual Misconduct Involving A Child-2Nd Or Subsequent Offense | 566.083 | Low | 16 | 1 | 4.0 | 6% |
| 22205 | Use Of Child In Sexual Performance | 568.080 | Low | 18 | 5 | 4.4 | 28% |
| 25027 | Possession Of Child Pornography 2Nd Offense | 573.037 | Low | 1 | - | - | 0% |
| 25063 | Promoting Child Porno- Graphy-2Nd Degree | 573.035 | Low | 6 | - | - | 0% |
| 26045 | Endangering Welfare Of A Child 1St Degree | 568.045 | Low | 240 | 35 | 4.1 | 15% |
| 26051 | Endangering Welfare Of Child In Ritual/ Ceremony, 1St Degree-2Nd Off | 568.045 | Low | 38 | 8 | 4.5 | 21% |
| 26063 | Abuse Of Child | 568.060 | Low | 421 | 84 | 5.0 | 20% |

Class D Sex and Child Abuse

| Offense | Description | RSMO Statute | Offense Severity | Sentence Count | of which Prison | Ave. Prison Sent. Yrs. | Ave. Percent Prison Disp. |
|---------|---|--------------|------------------|----------------|-----------------|------------------------|---------------------------|
| 11120 | Deviate Sexual Assault 2Nd Degree | 566.080 | High | 3 | 2 | 5.0 | 67% |
| 22011 | Sexual Misconduct-1St Deg Prev/Convict Chpt/566 Dis/Dead/Weap/Rit | 566.090 | High | 49 | 18 | 4.3 | 37% |
| 22025 | Sex Misconduct Involving A Child-1St Offense | 566.083 | High | 167 | 49 | 3.8 | 29% |
| 22030 | Sexual Abuse 1St Degree | 566.100 | High | 11 | 2 | 5.0 | 18% |
| 22090 | Incest | 568.020 | High | 29 | 13 | 4.5 | 45% |
| 22110 | Child Molestation-2Nd/D-P-Conv/Chtp 566 Dead/Wea-Dang Instru-Inj/ | 566.068 | High | 13 | 5 | 4.0 | 39% |
| 22332 | Fail/Comp/Sub/Offend/Regist Form/Chief Leo/Req Under Sec 589.425(1) | 589.425 | Med | 3 | 1 | 3.0 | 33% |
| 26022 | Abandonment Of Child-2Nd Degree | 568.032 | Med | 2 | 1 | 2.0 | 50% |
| 26052 | Endangering Welfare Of Child 1St Degree | 568.045 | Med | 993 | 162 | 3.8 | 16% |
| 11060 | Sexual Assault 2Nd Degree | 566.050 | Low | 1 | - | - | 0% |
| 22130 | Sexual Contact W/An Inmate Or Resid Of Jail,Prisoner Corr Fac | 566.145 | Low | 5 | - | - | 0% |
| 22145 | Attempt To Entic Child-Actor 21 Yrs Or Older-Child Less Than 15 | 566.151 | Low | 4 | 1 | 1.0 | 25% |
| 22340 | Fail/Time/Veri/Info Made In State/F Offe Reg As Req Und Sec 589.425 | 589.425 | Low | 2 | - | - | 0% |
| 22344 | F Of Off To Info C/Leo/New Address As Required Und.Sec 589.425 (1) | 589.425 | Low | 1 | - | - | 0% |
| 25010 | Promoting Pornography 1St Degree | 573.020 | Low | 4 | 1 | 3.0 | 25% |
| 26020 | Abandonment Of Child | 568.030 | Low | 2 | - | - | 0% |
| 26053 | Endangering Welfare Of Child In Ritual/Ceremony, 2Nd Degree | 568.050 | Low | 43 | 5 | 2.2 | 12% |

Any unlisted offense will have Medium severity.

Recommended Sentences for Non-Violent Offenses

| Felony Class | | Prior Criminal History | | | | |
|-----------------------------------|--|-----------------------------------|-----------|--------------------------|----------|---------|
| | | Level I | Level II | Level III | Level IV | Level V |
| Class A | | <i>Data 2004</i> | | <i>Insufficient data</i> | | |
| <i>Percent Prison Disposition</i> | | | | | | |
| <i>Ave. Prison Sentence</i> | | | | | | |
| High | | | | | | |
| Mitigating | | Probation | CSS | Shk/Trt | 10 | 12 |
| Presumptive | | CSS | Shk/Trt | 12 | 14 | 15 |
| Aggravating | | Shk/Trt | 12 | 13 | 15 | 20 |
| Medium | | | | | | |
| Mitigating | | Probation | CSS | Shk/Trt | 10 | 12 |
| Presumptive | | CSS | Shk/Trt | 12 | 14 | 15 |
| Aggravating | | Shk/Trt | 12 | 13 | 15 | 20 |
| Low | | | | | | |
| Mitigating | | Probation | CSS | Shk/Trt | 10 | 12 |
| Presumptive | | CSS | Shk/Trt | 12 | 14 | 15 |
| Aggravating | | Shk/Trt | 12 | 13 | 15 | 20 |
| <i>Data 2004</i> | | | | | | |
| Class B | | <i>Percent Prison Disposition</i> | 10.1% | 39.6% | 70.9% | 71.4% |
| <i>Ave. Prison Sentence</i> | | 6.6 | 6.6 | 7.9 | 8.9 | 9.2 |
| High | | | | | | |
| Mitigating | | Probation | Probation | CSS | Shk/Trt | 8 |
| Presumptive | | CSS | CSS | Shk/Trt | 8 | 10 |
| Aggravating | | Shk/Trt | 6 | 8 | 10 | 12 |
| Medium | | | | | | |
| Mitigating | | Probation | Probation | CSS | Shk/Trt | 8 |
| Presumptive | | CSS | CSS | Shk/Trt | 8 | 10 |
| Aggravating | | Shk/Trt | 5 | 8 | 10 | 12 |
| Low | | | | | | |
| Mitigating | | Probation | Probation | CSS | Shk/Trt | 6 |
| Presumptive | | Probation | CSS | Shk/Trt | 6 | 8 |
| Aggravating | | CSS | 5 | 6 | 8 | 10 |
| <i>Data 2004</i> | | | | | | |
| Class C | | <i>Percent Prison Disposition</i> | 11.4% | 31.9% | 59.3% | 64.1% |
| <i>Ave. Prison Sentence</i> | | 4.1 | 4.2 | 4.5 | 4.9 | 5.3 |
| High | | | | | | |
| Mitigating | | Probation | Probation | CSS | Shk/Trt | 5 |
| Presumptive | | Probation | CSS | Shk/Trt | 5 | 6 |
| Aggravating | | CSS | Shk/Trt | 5 | 6 | 7 |
| Medium | | | | | | |
| Mitigating | | Probation | Probation | CSS | Shk/Trt | 3 |
| Presumptive | | Probation | CSS | Shk/Trt | 3 | 4 |
| Aggravating | | CSS | Shk/Trt | 3 | 5 | 6 |
| Low | | | | | | |
| Mitigating | | Probation | Probation | CSS | Shk/Trt | 2 |
| Presumptive | | Probation | CSS | Shk/Trt | 2 | 3 |
| Aggravating | | CSS | Shk/Trt | 2 | 3 | 5 |

| Felony Class | Prior Criminal History | | | | |
|------------------|------------------------|-----------------------------------|-----------|----------|---------|
| | Level I | Level II | Level III | Level IV | Level V |
| Offense Severity | <i>Data 2004</i> | | | | |
| | Class D | <i>Percent Prison Disposition</i> | 8.0% | 20.8% | 42.1% |
| | | 3.0 | 3.2 | 3.2 | 3.3 |
| | High | | | | |
| | Mitigating | Probation | Probation | CSS | CSS |
| | Presumptive | Probation | CSS | CSS | Shk/Trt |
| | Aggravating | CSS | Shk/Trt | Shk/Trt | 2 |
| | Medium | | | | |
| | Mitigating | Probation | Probation | CSS | CSS |
| | Presumptive | Probation | CSS | CSS | Shk/Trt |
| | Aggravating | CSS | Shk/Trt | Shk/Trt | 2 |
| | Low | | | | |
| | Mitigating | Probation | Probation | CSS | CSS |
| | Presumptive | Probation | Probation | CSS | Shk/Trt |
| | Aggravating | CSS | CSS | Shk/Trt | 2 |

Aggravating Factors

- The defendant was armed with or used a dangerous or deadly weapon during the commission of the offense or during the arrest and has not been convicted of an offense that includes the possession of a dangerous or deadly weapon.
- The defendant has also been convicted of a violent offense (felony, misdemeanor or infraction) committed during the commission of the offense.
- The defendant made, or expected to make, a substantial financial gain from the commission of the offense.
- The defendant caused severe financial loss to the victim of the offense. There has been loss of business, employment or serious financial loss when the value of the loss is not included in the offense for which the defendant has been convicted.
- The defendant caused severe physical or emotional trauma to the victim of the offense. The victim has required medical or mental health intervention and the impact of the trauma is not included in the offense for which the defendant has been convicted.
- The defendant committed the offense while under supervision by a federal, state or local authority on another charge.
- Any other aggravating factors reasonably related to the purposes of sentencing, as specified by the court or by the sentence assessment report.

Mitigating Factors

- The defendant has made or is making restitution to the victim.
- For offenses related to drug or alcohol dependency, the offender has agreed to enter or has entered a drug or alcohol treatment program and there is a plan for continuing relapse prevention. Not to apply if the sentence involves placement in a drug or alcohol treatment program.
- The defendant used caution to avoid risk or injury to others and caused no injury, financial loss or trauma to the victim. Not to apply when the offender has been convicted of the attempt of the offense.
- The defendant has cooperated with law enforcement.
- The defendant has had a substantial period of crime-free living prior to the commission of the offense (five years or more).
- Any other mitigating factors reasonably related to the purposes of sentencing, as specified by the court or by the sentence assessment report.

SEVERITY OF OFFENSE

Class A Non-Violent

| Offense | Description | RSMO Statute | Offense Severity | Sentence Count | of which Prison | Ave. Prison Sent. Yrs. | Ave. Percent Prison Disp. |
|---------|---|--------------|------------------|----------------|-----------------|------------------------|---------------------------|
| 15014 | Theft Of Anhydrous Ammonia By Truck/Trlr/Rail Tk Car/Field Appl | 570.030 | Med | 10 | - | - | 0% |
| 29050 | Perjury To Secure Conviction Of Accused For Murder | 575.040 | Med | 1 | - | - | 0% |

Class B Non-Violent

| Offense | Description | RSMO Statute | Offense Severity | Sentence Count | of which Prison | Ave. Prison Sent. Yrs. | Ave. Percent Prison Disp. |
|---------|---|--------------|------------------|----------------|-----------------|------------------------|---------------------------|
| 28051 | Escape Or Attempted Escape From Department Of Corrections | 575.210 | High | 26 | 20 | 8.5 | 77% |
| 14010 | Burglary 1St Degree | 569.160 | Med | 1,420 | 414 | 8.5 | 29% |
| 19882 | Financ/Exploit/Elderly Or Disabled Person (Property Value \$1000 Or More) | 570.145 | Med | 1 | 1 | 7.0 | 100% |
| 15018 | Theft/Stealing (Value Of Property Or Services Is \$25,000 Or More) | 570.030 | Low | 47 | 2 | 7.0 | 4% |
| 15019 | Theft/Attempt Theft Of Anhydrous Ammonia Or Liquid Nitrogen | 570.030 | Low | 93 | 18 | 6.7 | 19% |
| 21030 | Promoting Prostitution - 1St Degree | 567.050 | Low | 2 | - | - | 0% |
| 28115 | Aiding Escape Of Prisoner Confined For A Felony | 575.230 | Low | 2 | - | - | 0% |
| 29060 | Perjury To Secure Conviction Of Accused For Felony Other Than Murder | 575.040 | Low | 2 | - | - | 0% |

Class C Non-Violent

| Offense | Description | RSMO Statute | Offense Severity | Sentence Count | of which Prison | Ave. Prison Sent. Yrs. | Ave. Percent Prison Disp. |
|---------|--|--------------|------------------|----------------|-----------------|------------------------|---------------------------|
| 14020 | Burglary 2Nd Degree | 569.170 | High | 9,566 | 2,440 | 5.1 | 26% |
| 15016 | Theft Of Ammonium Nitrate | 570.030 | High | 13 | 4 | 4.8 | 31% |
| 15034 | Stealing--3Rd Offense | 570.040 | High | 581 | 273 | 5.4 | 47% |
| 15035 | Stealing Related Offense 3Rd Offense | 570.040 | High | 294 | 111 | 4.6 | 38% |
| 17020 | Arson 2Nd Degree | 569.050 | High | 348 | 104 | 5.7 | 30% |
| 19180 | Removal Or Defacing Manufacturer'S Numbe R | 301.400 | High | 5 | 1 | 5.0 | 20% |
| 19320 | Sale Of Unregistered Securities | 409.301 | High | 2 | 2 | 6.5 | 100% |
| 23010 | Tampering 1St With Service Of Utility Or Institution | 569.080 | High | 377 | 205 | 4.2 | 54% |
| 23200 | Institutional Vandalism | 574.085 | High | 2 | 1 | 5.0 | 50% |
| 29217 | Tampering With Judicial Officer | 565.084 | High | 26 | 18 | 4.9 | 69% |
| 15010 | Stealing | 570.030 | Med | 7,733 | 1,416 | 4.6 | 18% |
| 15015 | Theft/Attempt Theft Of Anhydrous Ammonia Or Liquid Nitrogen | 570.030 | Med | 166 | 41 | 4.2 | 25% |
| 15017 | Theft/Stealing Any Cont Substance Defined By Section 195.010, Rsmo | 570.030 | Med | 32 | 3 | 5.0 | 9% |
| 15020 | Stealing Motor Vehicle | 570.030 | Med | 1,091 | 279 | 4.5 | 26% |
| 15023 | Theft/Stealing Of Any Firearm | 570.030 | Med | 29 | 7 | 4.9 | 24% |
| 15025 | Theft/Stealing Of Any Credit Card Or Letter Of Credit | 570.030 | Med | 96 | 17 | 4.8 | 18% |
| 15095 | Library Theft-\$500 Or More | 570.210 | Med | 2 | 1 | 4.0 | 50% |
| 15140 | Check Kiting | 570.220 | Med | 35 | 6 | 5.0 | 17% |
| 18010 | Forgery | 570.090 | Med | 8,487 | 2,032 | 4.2 | 24% |
| 18011 | Counterfeiting | 570.103 | Med | 23 | 6 | 4.8 | 26% |
| 23015 | Tampering 1St Degree W Mtr Veh, Airplane Motor Boat, Etc | 569.080 | Med | 4,742 | 1,206 | 4.2 | 25% |
| 23106 | Property Damage Motivated By Discrimination 1St Degree | 557.035 | Med | 8 | 1 | 8.0 | 13% |
| 23241 | Damage To Dept Of Corrections Bldg Or Property By An Inmate | 217.385 | Med | 12 | 12 | 3.1 | 100% |
| 24010 | Receiving Stolen Property \$150 Or More | 570.080 | Med | 1,734 | 405 | 4.3 | 23% |
| 29070 | Perjury In A Procedure Involving A Felony Charge | 575.040 | Med | 13 | 3 | 4.3 | 23% |
| 29220 | Tampering With Judicial Proceeding | 575.260 | Med | 10 | 3 | 3.7 | 30% |
| 29230 | Tampering With A Witness In Felony Prose | 575.270 | Med | 46 | 12 | 4.4 | 26% |
| 15011 | Stealing Over \$150 By Coercion Or Deceit | 570.030 | Low | 14 | - | - | 0% |
| 15021 | Theft/Stealing (Value Of Property Or Services Is \$500 Less Than \$25,000) | 570.030 | Low | 3,143 | 539 | 4.3 | 17% |
| 15022 | Stealing A Watercraft Or Aircraft | 570.030 | Low | 5 | - | - | 0% |
| 15027 | Theft/Stealing Any Anim/Species Of Horse Mule,Ass,Cattle,Swine, Or C | 570.030 | Low | 3 | - | - | 0% |

Class C Non-Violent, continued

| Offense | Description | RSMO Statute | Offense Severity | Sentence Count | of which Prison | Ave. Prison Sent. Yrs. | Ave. Percent Prison Disp. |
|---------|--|--------------|------------------|----------------|-----------------|------------------------|---------------------------|
| 15029 | Thef/Steal Live Fish Rais For Comm Sale Value Of Seventy/Five Dollar | 570.030 | Low | 2 | - | - | 0% |
| 15038 | Stealing By Force | 570.030 | Low | 51 | 3 | 4.3 | 6% |
| 15044 | Theft/Stea Any Orig Copy Of Act/Bill/Res Intro/Acted Upon By The Le | 570.030 | Low | 1 | - | - | 0% |
| 15046 | Thef/Steal Any Pleading/Notice/Judgement Rec/Entry Of Any Ct Of Thi | 570.030 | Low | 7 | - | - | 0% |
| 15060 | Theft Of Cable Television Services Value Of \$150 Or More | 570.300 | Low | 4 | 1 | 2.0 | 25% |
| 15065 | Theft Of Cable Tv Services Less Than \$500 | 570.300 | Low | 3 | - | - | 0% |
| 15080 | Stealing Grain | 411.770 | Low | 10 | 1 | 2.0 | 10% |
| 15090 | Theft Of Library Material Material Over \$150. | 570.210 | Low | 1 | - | - | 0% |
| 15110 | Misapplication Of Funds Of Financial Institution--Over \$1000 | 570.217 | Low | 7 | - | - | 0% |
| 18020 | Possession Of A Forging Instrumentality | 570.100 | Low | 43 | 9 | 3.6 | 21% |
| 18040 | Filing Another's Medical Lic As Own Or Forging Affidavit Of Identifica | 334.250 | Low | 1 | - | - | 0% |
| 19420 | Falsifying Signature Of An Owner With Intent To Defraud | 429.013 | Low | 1 | - | - | 0% |
| 19430 | Lien Fraud-Knowingly Issuing A Fraud- Ualent Consent Of Owner Over | 429.014 | Low | 7 | - | - | 0% |
| 19690 | Person Prev Convicted Of 2 Vio For Crime Relate To Pub Asst/Guilty-C | 578.389 | Low | 1 | - | - | 0% |
| 19772 | Filing A False Insurance Statement | 374.216 | Low | 1 | - | - | 0% |
| 19880 | Financial Exploitation-Elderly/ Disabled Pers (Prop Valu Over 250) | 570.145 | Low | 4 | - | - | 0% |
| 20110 | Fraud Counterfeits/Alters/Forge State Lottery Ticket | 313.290 | Low | 1 | - | - | 0% |
| 21040 | Promoting Prostitution - 2Nd Degree | 567.060 | Low | 21 | 5 | 4.0 | 24% |
| 23012 | Tampering 1St Degree | 569.080 | Low | 99 | 8 | 3.9 | 8% |
| 23063 | Tamp W/Computer Equip, Computer System Or Newtwork Damg \$1000 | 569.097 | Low | 1 | - | - | 0% |
| 23225 | Institutional Vandalism Over \$5,000 | 574.085 | Low | 3 | - | - | 0% |
| 24015 | Receive Stolen Property-\$500 Or More/As A Dealr In Goods This Type | 570.080 | Low | 703 | 157 | 4.1 | 22% |
| 24100 | Failure To Return Leased Or Rented Property Valued \$150 Or More | 578.150 | Low | 212 | 36 | 3.6 | 17% |
| 24105 | Failure To Return Leased Or Rented Property \$500 Or More | 578.150 | Low | 87 | 10 | 3.2 | 12% |
| 31015 | Unlawful Use Of Weapon Motivated By Discrimination | 557.035 | Low | 20 | 1 | 2.0 | 5% |
| 31070 | Unlawful Possession Of Concealable Firearm | 571.070 | Low | 53 | 14 | 4.1 | 26% |
| 31075 | Knwngly Poss Explos, Incend Or Poison Subst W/ Pur To Sell, Manf | 571.020 | Low | 4 | - | - | 0% |
| 31080 | Unlawful Possession, Transport, Manufact Ure, Repair Or Sale Of Illega | 571.020 | Low | 151 | 20 | 4.8 | 13% |
| 31160 | Threat To Place Or Plant Bomb Or Explosi Ve At Or Near Bus Or Term | 578.310 | Low | 1 | - | - | 0% |
| 31170 | Possession Of Weapon/Explosive Or Hazardous Material On Bus Or In | 578.320 | Low | 1 | - | - | 0% |
| 36340 | Violations Health Care Pymts 2Nd Off Hcr Inj/Prop/O/\$150 | 191.905 | Low | 1 | - | - | 0% |
| 36801 | Keeping Or Maintaining A Public Nuisance Crim Street Gang Use | 578.433 | Low | 9 | 1 | 2.0 | 11% |
| 36967 | Unlawful Practice Of Midwifery | 334.250 | Low | 1 | - | - | 0% |
| 39260 | Sell Fish Wildlife Or Parts In Viol Of Rules And Reg - Over \$150 | 252.235 | Low | 1 | - | - | 0% |
| 54076 | Violation Of Any Provisions Of Sections 443805 To 443812 | 443.810 | Low | 1 | - | - | 0% |

Class D Non-Violent

| Offense | Description | RSMO Statute | Offense Severity | Sentence Count | of which Prison | Ave. Prison Sent. Yrs. | Ave. Percent Prison Disp. |
|---------|--|--------------|------------------|----------------|-----------------|------------------------|---------------------------|
| 14030 | Possession Of Burglary Tools | 569.180 | High | 151 | 65 | 4.2 | 43% |
| 15012 | Theft Of Anhydrous Ammonia | 570.030 | High | 173 | 42 | 4.0 | 24% |
| 15032 | Stealing Animals | 570.033 | High | 37 | 9 | 4.0 | 24% |
| 15036 | Steal/Relat Offenses/3Rd Offense Include Steal/Receiving/Buying Stole | 570.040 | High | 76 | 42 | 3.5 | 55% |
| 17030 | Knowingly Burning Or Exploding | 569.055 | High | 238 | 50 | 4.3 | 21% |
| 19045 | Deceptive Business Practice | 407.020 | High | 18 | 6 | 4.8 | 33% |
| 19080 | Defrauding Secured Creditors - \$500 Or More | 570.180 | High | 48 | 4 | 4.0 | 8% |
| 19173 | Sale/Poss Of Mtr Veh/Trl/Boat/Mtr Veh Tire/Eqp/Parts W/Missing Or F | 301.390 | High | 22 | 8 | 3.3 | 36% |
| 19368 | Decept/Fraud Etc., Of Material Fact In Sale Or Advertise Or Solic Fund | 407.020 | High | 27 | 6 | 5.2 | 22% |
| 21050 | Promoting Prostitution - 3Rd Degree | 567.070 | High | 32 | 4 | 3.8 | 13% |
| 23020 | Tampering With Utility-2Nd Degree 2Nd And Subsequent Offense | 569.090 | High | 10 | 1 | 4.0 | 10% |
| 23137 | Trespass Motivated By Discrimination 1St Degree | 557.035 | High | 2 | 1 | 4.0 | 50% |

Class D Non-Violent, continued

| Offense | Description | RSMO Statute | Offense Severity | Sentence Count | of which Prison | Ave. Prison Sent. Yrs. | Ave. Percent Prison Disp. |
|---------|--|--------------|------------------|----------------|-----------------|------------------------|---------------------------|
| 23220 | Institutional Vandalism | 574.085 | High | 6 | 2 | 3.5 | 33% |
| 24030 | Alter Or Remove Item Number With Intent To Deprive Lawful Owner | 570.085 | High | 11 | 3 | 3.7 | 27% |
| 24035 | Altering/Remove Item Number To Deprive Lawful Owner-\$500/More | 570.085 | High | 2 | 1 | 5.0 | 50% |
| 26083 | Vio Of Term Of Ex-Parte On Full Order Of Protection (Within 5 Years) | 455.085 | High | 199 | 54 | 3.1 | 27% |
| 27020 | Resisting Arrest Other Than By Flight; Interfering With Arrest For Felon | 575.150 | High | 674 | 250 | 3.4 | 37% |
| 28030 | Escaping Custody Under Arrest For A Felony | 575.200 | High | 52 | 30 | 3.5 | 58% |
| 28065 | Escape From Confinement | 575.210 | High | 91 | 63 | 3.4 | 69% |
| 29110 | Tampering With Physical Evidence Felony | 575.100 | High | 65 | 20 | 4.6 | 31% |
| 29320 | Bribery Of A Public Servant | 576.010 | High | 12 | 1 | 5.0 | 8% |
| 29370 | Failure To Appear On Felony | 544.665 | High | 152 | 80 | 3.1 | 53% |
| 31040 | Unlawful Transfer Of Weapon | 571.060 | High | 15 | 2 | 5.0 | 13% |
| 36048 | Abandonment Of A Corpse | 194.425 | High | 8 | 3 | 3.7 | 38% |
| 36190 | Recklessly Risk Infection Of Another With Hiv | 191.677 | High | 10 | 6 | 4.0 | 60% |
| 36341 | Violations Involving Health Care Payments 1St Offense | 191.905 | High | 6 | 1 | 4.0 | 17% |
| 36545 | Animal Abuse-Persistent Offender | 578.012 | High | 31 | 4 | 5.0 | 13% |
| 46682 | Opr Mv On Hwy While Dr Lic/Priv Rev (Rev For Unknown Reasons) | 302.321 | High | 176 | 69 | 3.2 | 39% |
| 46685 | Opr Mv On Hwy W Dr Lic Rev (Susp For Prob Caus 10/100 Bac/Zero) | 302.321 | High | 9 | 1 | 5.0 | 11% |
| 54029 | Fail Offender Inform Law Ofical Of New Addr-2Nd/Sub Violation | 589.414 | High | 1 | 1 | 5.0 | 100% |
| 54156 | Fail Complete/Submit Offendr Reg Frm To Chief Leo-2Nd/Subs Offns | 589.425 | High | 9 | 6 | 3.5 | 67% |
| 19010 | Passing A Bad Check | 570.120 | Med | 3,377 | 482 | 3.5 | 14% |
| 19011 | Passing Bad Check-\$500 Or More No Account/Insufficient Funds | 570.120 | Med | 1,401 | 177 | 3.2 | 13% |
| 19030 | Fraudulent Use Of Credit/Debit Device (Value Of \$500 Or More) | 570.130 | Med | 883 | 154 | 3.7 | 17% |
| 19042 | Defrauding Of Credit Card Holder Issuer, Or Acquirer By An Authorize | 407.436 | Med | 7 | 2 | 3.0 | 29% |
| 19640 | Unlaw Transfer Food Stamp Coupons/Atp Cards Val O/\$150 To Person | 578.381 | Med | 2 | 1 | 2.0 | 50% |
| 19778 | Use Fund For Private Gains | 375.390 | Med | 1 | 1 | 3.0 | 100% |
| 23110 | Property Damage 1St Degree | 569.100 | Med | 1,016 | 141 | 3.5 | 14% |
| 23245 | Damage To Jail/Jail Property | 221.353 | Med | 105 | 43 | 2.9 | 41% |
| 26031 | Nonsupport In Ea Six Mos Within Twelve Mo-Amt Owed Excess \$5000 | 568.040 | Med | 7,595 | 497 | 3.2 | 7% |
| 27035 | Resist Arrest By Fleeing Caus- Ing Risk Of Injury/Death | 575.150 | Med | 169 | 57 | 3.0 | 34% |
| 28080 | Failure To Return To Confinement Missouri Department Of Corrections | 575.220 | Med | 38 | 28 | 2.5 | 74% |
| 28110 | Aiding Escape Of Prisoner Confined For A Felony | 575.230 | Med | 7 | 2 | 3.0 | 29% |
| 29030 | Hindering Prosecution | 575.030 | Med | 99 | 14 | 3.2 | 14% |
| 31020 | Unlawful Use Of Weapon (Sub Section 1-4) | 571.030 | Med | 4,137 | 589 | 3.5 | 14% |
| 33355 | Del/Atmpt To Del/Poss/Dep/Con Alkaloid Of Cont/Sub, Intox Liq At Co | 217.360 | Med | 1 | 1 | 2.0 | 100% |
| 33365 | Alkaloid/Liquor In A Correctional Facility | 221.111 | Med | 9 | 3 | 2.3 | 33% |
| 34015 | Making A False Bomb Report | 575.090 | Med | 48 | 5 | 3.6 | 10% |
| 37025 | Filing A False Missouri Income Tax Return | 143.941 | Med | 10 | 3 | 3.0 | 30% |
| 46683 | Opr Mv On Hwy W Dr Lic/Priv Revoked (Points/Fail To Take Test) | 302.321 | Med | 181 | 47 | 2.8 | 26% |
| 46687 | Opr Mv On Hwy W Dr Lic Rev (Susp For Prob Caus 10/100 Bac/Zero) | 302.321 | Med | 3 | 1 | 3.0 | 33% |
| 46689 | Oper Mv On Hwy W Dr Lic/Privilege Revoked (Suspended For Points) | 302.321 | Med | 921 | 240 | 3.0 | 26% |
| 46691 | Oper Mv On Hwy W Dr Lic/Priv Revok (Susp For Impp Compact State) | 302.321 | Med | 19 | 2 | 3.5 | 11% |
| 46693 | Opr Mv W Di Rev (Sus After Fail Exam Fail To Submit To Exam Req E | 302.321 | Med | 1 | 1 | 3.0 | 100% |
| 48865 | Left The Scene Of A Motor Vehicle Accident | 577.060 | Med | 1,255 | 233 | 3.5 | 19% |
| 54158 | Including False Info In Offender Regist Stmt-2Nd/Subseq Ofns | 589.425 | Med | 2 | 2 | 3.0 | 100% |
| 54163 | Offender Fail To Inform Chief Leo Of New Addr-2Nd/Subsequent Ofns | 589.425 | Med | 5 | 4 | 2.8 | 80% |
| 15050 | Remove Baggage From Bus Or Terminal W/O Owners Consent | 578.330 | Low | 3 | - | - | 0% |
| 15120 | Misapplication Of Funds Of Financial Institution | 570.217 | Low | 1 | - | - | 0% |
| 15130 | Making False Entries In Records Of Financial Institution | 570.219 | Low | 4 | - | - | 0% |
| 15152 | More Than 1000 Artcls Unauthorized Recording 2Nd/Subsequent Offen | 570.225 | Low | 1 | - | - | 0% |
| 15212 | Causing Tft/Loss To/From Anm Facility From \$300 To \$10,000 | 578.409 | Low | 2 | - | - | 0% |
| 18012 | Counterfeiting | 570.103 | Low | 11 | - | - | 0% |
| 19015 | Fraudulently Stop Payment Of An Instrum Over \$150 | 570.125 | Low | 22 | 1 | 2.0 | 5% |
| 19016 | Fraud Stop Payment Of An Instru- Ment/S Value Of \$500 Or More | 570.125 | Low | 3 | - | - | 0% |
| 19146 | Emp State On Withhold Form Child Sup Not Owe-Know Owe Support | 285.308 | Low | 1 | - | - | 0% |
| 19150 | Obtain Public Assistance Information Illegally | 205.967 | Low | 7 | - | - | 0% |
| 19190 | Removal Or Defacing Manufacturer'S Numbe R On Special Mobile Equ | 301.401 | Low | 4 | - | - | 0% |
| 19214 | Odometer Fraud 2Nd Degree | 407.521 | Low | 1 | - | - | 0% |

Class D Non-Violent, continued

| Offense | Description | RSMO Statute | Offense Severity | Sentence Count | of which Prison | Ave. Prison Sent. Yrs. | Ave. Percent Prison Disp. |
|---------|---|--------------|------------------|----------------|-----------------|------------------------|---------------------------|
| 19245 | Defacing, Obscuring Or Otherwise Falsifying Any Odometer Reading | 407.536 | Low | 1 | - | - | 0% |
| 19300 | Fraudulent Security Practices | 409.101 | Low | 4 | - | - | 0% |
| 19305 | Making False Or Misleading Statement | 409.410 | Low | 1 | - | - | 0% |
| 19365 | Any Person Willingly And Knowingly Vio An Order Of Atty General/C | 407.095 | Low | 1 | - | - | 0% |
| 19367 | Pyramid Sales Schemes Prohibited | 407.420 | Low | 3 | - | - | 0% |
| 19600 | Unlawfully Receiving Food Stamp Coupons Or Atp Cards Over \$150 Va | 578.377 | Low | 1 | - | - | 0% |
| 19605 | Unlawfully Receiving Food Stamps/Atp Card-\$500 Or More | 578.377 | Low | 1 | - | - | 0% |
| 19620 | Unlawful Conversion Of Food Stamp Coupon Or Atp Cards To Property | 578.379 | Low | 1 | - | - | 0% |
| 19655 | Perjury In Application For Public Assistance \$500/More | 205.965 | Low | 1 | - | - | 0% |
| 19660 | Perjury In The Application To Obtain Public Assistance Over \$150 | 578.385 | Low | 1 | - | - | 0% |
| 19725 | Offer Bribe To Health Facility Review Committee - 2Nd Offense | 197.326 | Low | 1 | - | - | 0% |
| 19775 | Commission Of Fraudulent Insurance | 375.991 | Low | 6 | - | - | 0% |
| 19776 | Filing False Statement | 374.210 | Low | 6 | 1 | 3.0 | 17% |
| 19870 | Misappropriation Of Funds Of Elderly Nursing Home Residents | 198.097 | Low | 4 | - | - | 0% |
| 20010 | Gambling Professional Player | 572.020 | Low | 1 | - | - | 0% |
| 20040 | Promoting Gambling - 1 St Degree | 572.030 | Low | 6 | - | - | 0% |
| 20060 | Possession Of Gambling Records - 1St Deg Ree | 572.050 | Low | 2 | - | - | 0% |
| 20120 | Intent To Defraud By Mfg/Poss Of Counterfeit Lottery Ticket/Device | 313.290 | Low | 1 | - | - | 0% |
| 20260 | Viol Laws-River Boat Gambling-Juris- Diction Of Port City | 313.830 | Low | 11 | - | - | 0% |
| 21015 | Prostitution-Persistent Offender | 567.020 | Low | 16 | 4 | 3.0 | 25% |
| 23031 | Tampering With Property Of An- Other Motivated By Discrimination | 557.035 | Low | 8 | 2 | 2.5 | 25% |
| 23042 | Tamper W/Computer Data To Defraud Or Obtain Property Value Over \$ | 569.095 | Low | 1 | - | - | 0% |
| 23043 | Tamp W/Computer Data To De- Fraud/Obtain Property \$500/More | 569.095 | Low | 1 | - | - | 0% |
| 23064 | Damage To Computer Equipment, System Or Network \$150 Or More B | 569.097 | Low | 4 | - | - | 0% |
| 23108 | Property Damage Motivated By Discrimination 2Nd Degree | 557.035 | Low | 2 | - | - | 0% |
| 23230 | Institutional Vandalism \$1,000 - \$5,000 | 574.085 | Low | 1 | - | - | 0% |
| 23274 | Violate Section 578416 Regard- Ing Crop Loss-\$501-\$1,000 | 578.418 | Low | 1 | - | - | 0% |
| 26030 | Non-Support Leave State | 568.040 | Low | 18 | - | - | 0% |
| 26160 | Surrendr/Trnsfr Cust-Minorchld- W/O Obt Crt Ord-Approv/Orderng | 453.110 | Low | 4 | 1 | 2.0 | 25% |
| 26180 | Having Custody Of Child In Viol Of Sect 453005-453170/210620 | 453.112 | Low | 1 | - | - | 0% |
| 28010 | Escape From Commitment | 575.195 | Low | 9 | 2 | 2.5 | 22% |
| 29010 | Concealing An Offense | 575.020 | Low | 6 | 1 | 2.0 | 17% |
| 29075 | Perjury In A Procedure Not Involving A Felony Charge | 575.040 | Low | 6 | 1 | 3.0 | 17% |
| 29260 | Acceding To Corruption - Felony Prosecut Ion | 575.280 | Low | 2 | - | - | 0% |
| 29330 | Acceding To Corruption By A Public Serv Ant | 576.020 | Low | 10 | 1 | 2.0 | 10% |
| 31127 | Loaded Firearm/Weapon-School-School Bus-School Sanctioned Activit | 571.030 | Low | 7 | - | - | 0% |
| 31162 | Poss/Disc Loaded F/A Projectile Weapon While Intoxicated | 571.030 | Low | 11 | 1 | 3.0 | 9% |
| 33285 | Selling Intoxicating Liquor Without State License | 311.550 | Low | 4 | 1 | 2.0 | 25% |
| 33350 | Possess Alkaloid, Spiritous Or Malt Liquor On Premises Of Corr Facility | 217.360 | Low | 4 | 1 | 1.0 | 25% |
| 34022 | Invasion Of Privacy Of Multiple Individuals - 2Nd Degree | 565.253 | Low | 6 | - | - | 0% |
| 34026 | Invasion Of Privacy-Prev Guilty Or Found Guilty-2Nd | 565.253 | Low | 1 | - | - | 0% |
| 35080 | Class One Election Offenses | 115.631 | Low | 6 | - | - | 0% |
| 36200 | Dog Fighting | 578.025 | Low | 9 | - | - | 0% |
| 36310 | Abuse Neg Or Misappropriation Client Prop By Hospice Employee | 197.266 | Low | 1 | - | - | 0% |
| 36400 | False Information For Birth Certificate | 193.315 | Low | 2 | - | - | 0% |
| 36600 | Knowingly Disturb/Destroy/Remove/Vandal/ Damage Unmarked Human | 194.410 | Low | 2 | - | - | 0% |
| 37005 | W/Int To Defraud, Wilfully Fail To Make Sales Tax Retrn/Pay/Keep Rcd | 144.480 | Low | 47 | 3 | 2.0 | 6% |
| 37008 | Emplry Willfully Failed To File Return/Pay Withholding Tax | 143.221 | Low | 1 | - | - | 0% |
| 37015 | Failure To File A Missouri Income Tax Return | 143.931 | Low | 17 | - | - | 0% |
| 37060 | Penalty For Filing False Sales Tax Return | 144.490 | Low | 1 | - | - | 0% |
| 37080 | Attempting To Evade Or Defeat Income Tax | 143.911 | Low | 3 | - | - | 0% |
| 37090 | Failure To Collect Or Pay Over Income Tax | 143.921 | Low | 3 | - | - | 0% |
| 37103 | Employee/Trustee Rec Com/Profit -Lands Held By Land Trust | 141.810 | Low | 2 | - | - | 0% |
| 46004 | Op Cmv W/O Sp Fuel License Or Permit By Dor W Int To Defraud | 142.422 | Low | 1 | - | - | 0% |
| 46609 | Operated Vehicle On Hwy W/O Valid License 3Rd & Subsq Offense | 302.020 | Low | 185 | 21 | 3.0 | 11% |
| 46613 | Opr Mtrcy When Dr Lic No Vali- Dated For Such Opr-3Rd/Subsq Offns | 302.020 | Low | 11 | 1 | 3.0 | 9% |
| 46681 | Opr M/V On Hwy W Driver Lic/Priv Rev (Revoked For Abuse & Lose | 302.321 | Low | 123 | 25 | 2.9 | 20% |
| 46684 | Dwr-Suspended For Stealingmotor Fuel As Pursuant To Sect 302286 | 302.321 | Low | 11 | 1 | 3.0 | 9% |
| 46692 | Oper Mv W Dr Lic/Priv Rev-Revfor Prob Cause 08/100% Bac/Zero Tol | 302.321 | Low | 16 | 3 | 2.7 | 19% |
| 46694 | Oper Mv W Dr Lic/Priv Rev-Susp For Prob Cause 08/100% Bac/Zero T | 302.321 | Low | 5 | - | - | 0% |
| 46695 | Oper Mv On Hwy W Dr Lic/Priv Rev (Susp Non Appear/Non Pay Of Fin | 302.321 | Low | 5 | 1 | 2.0 | 20% |
| 46697 | Op Mv W Dr Lic/Priv Revok (Susp Non Payment Of Child Support) | 302.321 | Low | 16 | 4 | 2.5 | 25% |
| 48867 | Leaving Scene Of Atv Accident-Death Or 2Nd Offense | 577.065 | Low | 8 | - | - | 0% |

Class D Non-Violent, continued

| Offense | Description | RSMO Statute | Offense Severity | Sentence Count | of which Prison | Ave. Prison Sent. Yrs. | Ave. Percent Prison Disp. |
|---------|---|--------------|------------------|----------------|-----------------|------------------------|---------------------------|
| 54028 | Fail Complete/Submit Offendr Reg Frm With Law Officer-2Dn/Subs Vi | 589.400 | Low | 3 | - | - | 0% |
| 54045 | Knowingly Cause The Death Or Disablement Of A Police Animal | 575.335 | Low | 1 | - | - | 0% |
| 54161 | Fail To Timely Verify Info In Stmt For Ofndr Reg-2Nd/Subseq Ofns | 589.425 | Low | 1 | - | - | 0% |
| 54166 | Failure Of Offender/Inform Chief Law Enforce/Off/Change/Enroll/Empl | 589.425 | Low | 1 | - | - | 0% |
| 54205 | Leaving The Scene Of A Vessel Accident Physical Injury | 306.141 | Low | 1 | - | - | 0% |
| 55250 | Counterfeiting | 18U.SC4 | Low | 2 | - | - | 0% |
| 55261 | Making A False Affidavit To Secure Federal Employment | 7US.C20 | Low | 1 | - | - | 0% |
| 55290 | Willful And Malicious Injury To Mail Rec Eptacle | 18U.SC1 | Low | 1 | - | - | 0% |
| 57080 | Illegal Wiretapping In Violation Of Section 542.402 | 542.402 | Low | 1 | - | - | 0% |
| 57125 | Invasion Of Privacy Of Multple Individuals/2Nd Degree | 565.253 | Low | 1 | - | - | 0% |
| 58001 | Making A False Bomb Report | 575.090 | Low | 9 | 2 | 2.5 | 22% |

Any unlisted offense will have Medium severity.

Recommended Sentences for Drug Offenses

For all cases where a community- based sentence is recommended, the commission recommends referral to a drug court where available and where the offender is eligible.

| Felony Class | Offense Severity | Prior Criminal History | | | | |
|--------------|------------------|-----------------------------------|-----------|-----------|----------|---------|
| | | Level I | Level II | Level III | Level IV | Level V |
| | <i>Data 2004</i> | | | | | |
| Class A | Offense Severity | <i>Percent Prison Disposition</i> | 14.4% | 17.0% | 47.8% | 58.3% |
| | | <i>Ave. Prison Sentence</i> | 12.1 | 9.8 | 12.5 | 10.7 |
| | | High | | | | |
| | | Mitigating | Probation | Probation | Shk/Trt | 10 |
| | | Presumptive | Probation | CSS | 10 | 13 |
| | | Aggravating | Shk/Trt | 10 | 13 | 15 |
| | | Medium | | | | |
| | | Mitigating | Probation | Probation | CSS | Shk/Trt |
| | | Presumptive | Probation | CSS | Shk/Trt | 10 |
| | | Aggravating | Shk/Trt | Shk/Trt | 10 | 13 |
| | | Low | | | | |
| | | Mitigating | Probation | Probation | CSS | Shk/Trt |
| | | Presumptive | Probation | CSS | Shk/Trt | 10 |
| | | Aggravating | CSS | Shk/Trt | 10 | 12 |
| | | | | | | 15 |
| | | <i>Data 2004</i> | | | | |
| Class B | Offense Severity | <i>Percent Prison Disposition</i> | 8.9% | 24.4% | 47.3% | 52.9% |
| | | <i>Ave. Prison Sentence</i> | 7.1 | 7.3 | 8.0 | 8.2 |
| | | High | | | | |
| | | Mitigating | Probation | Probation | CSS | Shk/Trt |
| | | Presumptive | Probation | CSS | Shk/Trt | 10 |
| | | Aggravating | Shk/Trt | Shk/Trt | 10 | 12 |
| | | Medium | | | | |
| | | Mitigating | Probation | Probation | CSS | Shk/Trt |
| | | Presumptive | Probation | CSS | Shk/Trt | 8 |
| | | Aggravating | Shk/Trt | Shk/Trt | 8 | 10 |
| | | Low | | | | |
| | | Mitigating | Probation | Probation | CSS | Shk/Trt |
| | | Presumptive | Probation | CSS | Shk/Trt | 6 |
| | | Aggravating | CSS | Shk/Trt | 6 | 7 |
| | | | | | | 10 |
| | | <i>Data 2004</i> | | | | |
| Class C | Offense Severity | <i>Percent Prison Disposition</i> | 6.2% | 21.7% | 44.9% | 48.1% |
| | | <i>Ave. Prison Sentence</i> | 4.2 | 4.3 | 4.5 | 4.8 |
| | | High | | | | |
| | | Mitigating | Probation | Probation | CSS | Shk/Trt |
| | | Presumptive | Probation | CSS | Shk/Trt | 4 |
| | | Aggravating | CSS | Shk/Trt | 4 | 5 |
| | | Medium | | | | |
| | | Mitigating | Probation | Probation | CSS | Shk/Trt |
| | | Presumptive | Probation | CSS | Shk/Trt | 3 |
| | | Aggravating | CSS | Shk/Trt | 3 | 4 |
| | | Low | | | | |
| | | Mitigating | Probation | Probation | CSS | Shk/Trt |
| | | Presumptive | Probation | CSS | Shk/Trt | 2 |
| | | Aggravating | CSS | Shk/Trt | 2 | 3 |
| | | | | | | 4 |

| Felony Class | Prior Criminal History | | | | |
|--|------------------------|--------------|--------------|--------------|--------------|
| | Level I | Level II | Level III | Level IV | Level V |
| Class D <i>Data 2004</i> <i>Percent Prison Disposition</i> <i>Ave. Prison Sentence</i> | 9.7% 3.1 | 19.0% 3.1 | 56.2% 3.2 | 50.0% 3.6 | 66.7% 3.8 |
| | High | | | | |
| | Mitigating | Probation | Probation | CSS | Shk/Trt |
| | Presumptive | Probation | CSS | Shk/Trt | 2 |
| | Aggravating | CSS | Shk/Trt | 2 | 3 |
| | Medium | | | | |
| | Mitigating | Probation | Probation | CSS | Shk/Trt |
| | Presumptive | Probation | CSS | Shk/Trt | 2 |
| | Aggravating | CSS | Shk/Trt | 2 | 2 |
| | Low | | | | |
| | Mitigating | Probation | Probation | CSS | Shk/Trt |
| | Presumptive | Probation | CSS | Shk/Trt | 2 |
| | Aggravating | CSS | Shk/Trt | 2 | 3 |

Aggravating Factors

- The defendant was armed with or used a dangerous or deadly weapon during the commission of the offense and has not been convicted of an offense that includes the possession of a dangerous or deadly weapon.
- The defendant has also been convicted of a violent offense (felony, misdemeanor or infraction) committed during the commission of the offense.
- The defendant made, or expected to make, a substantial financial gain from the commission of the offense.
- The defendant had possession of a substantial amount of illegal drugs or controlled substances or precursor chemicals or possession of large-scale equipment for the manufacturing of illegal drugs.
- The defendant committed the offense while under supervision by a federal, state or local authority on another charge.
- Any other aggravating factors reasonably related to the purposes of sentencing, as specified by the court or by the sentence assessment report.

Mitigating Factors

- For offenses related to drug or alcohol dependency, the offender has agreed to enter or has entered a drug or alcohol treatment program and there is a plan for continuing relapse prevention. Not to apply if the sentence involves placement in a drug or alcohol treatment program.
- The defendant has cooperated with law enforcement.
- The defendant has had a substantial period of crime-free living prior to the commission of the offense (five years or more).
- Any other mitigating factors reasonably related to the purposes of sentencing, as specified by the court or by the sentence assessment report.

SEVERITY OF OFFENSE

Class A Drugs

| Offense | Description | RSMO Statute | Offense Severity | Sentence Count | of which Prison | Ave. Prison Sent. Yrs. | Ave. Percent Prison Disp. |
|---------|---|--------------|------------------|----------------|-----------------|------------------------|---------------------------|
| 32463 | Distr/Del/Man (Sell) Controlled Substance Prir/Persisnt Offendr | 195.211 | High | 242 | 40 | 14.1 | 17% |
| 32490 | Trafficking In Drugs/Attemp To Traffic In Drugs-1St Degree | 195.222 | High | 312 | 138 | 12.9 | 44% |
| 32497 | Trafficking In Drugs/Att To Traffic In Drugs-1St Deg, Within Motor Ve | 195.222 | High | 1 | 1 | 30.0 | 100% |
| 32040 | Drug Violation - Possession | 195.020 | Med | 17 | 2 | 11.5 | 12% |
| 32448 | Possess Cont Subs Except 35 Gm Or Less Mj Persistent Offender | 195.202 | Med | 67 | 19 | 13.3 | 28% |
| 32485 | Distribution Of Controlled Substance Near Schools | 195.214 | Med | 371 | 46 | 13.4 | 12% |
| 32486 | Dist Controlled Substance Near Pub House-Govt Assisted Housing | 195.218 | Med | 124 | 17 | 11.9 | 14% |
| 32495 | Trafficking In Drugs/Attempt To Traffic In Drugs-2Nd Degree | 195.223 | Med | 982 | 172 | 11.8 | 18% |
| 32461 | Manf/Prod/Att/Manf/Prod,5 Grms Marj/C Su In Res W/Child/2000/Schd | 195.211 | Low | 11 | 3 | 8.3 | 27% |
| 32492 | Trafficking In Drugs/Attempt To Traffic Drugs-1St Deg-Nea Schools/Pu | 195.222 | Low | 5 | - | - | 0% |

Class B Drugs

| Offense | Description | RSMO Statute | Offense Severity | Sentence Count | of which Prison | Ave. Prison Sent. Yrs. | Ave. Percent Prison Disp. |
|---------|--|--------------|------------------|----------------|-----------------|------------------------|---------------------------|
| 32449 | Possess Controlled Subs Except 35 Gm Or Less Mj Prior Offender | 195.202 | Med | 218 | 39 | 8.3 | 18% |
| 32465 | Distribute, Deliver, Manufacture A Controlled Substance | 195.211 | Med | 12,094 | 2,369 | 7.8 | 20% |
| 32475 | Distribute Controlled Substance To A Minor | 195.212 | Med | 51 | 5 | 9.0 | 10% |
| 32500 | Trafficking In Drugs/Attempt To Traffic In Drugs-2Nd Degree | 195.223 | Med | 2,228 | 402 | 8.0 | 18% |
| 32645 | Any Pers Not The Own/Not In Law/Control Of Appr/Con Allow/Rel Of | 577.075 | Med | 1 | 1 | 7.0 | 100% |
| 32480 | Purchase Or Transport Of Controlled Substance With A Minor | 195.213 | Low | 7 | - | - | 0% |

Class C Drugs

| Offense | Description | RSMO Statute | Offense Severity | Sentence Count | of which Prison | Ave. Prison Sent. Yrs. | Ave. Percent Prison Disp. |
|---------|--|--------------|------------------|----------------|-----------------|------------------------|---------------------------|
| 32070 | Drug Violation - Sell | 195.020 | High | 6 | 1 | 5.0 | 17% |
| 32470 | Distribute Or Deliver Not More Than 5 Grams Marijuana | 195.211 | High | 773 | 115 | 4.7 | 15% |
| 32566 | Poss Chemicals W/Intent To Mfg Chemicals To Create Controlled Sub | 195.420 | High | 917 | 289 | 4.8 | 32% |
| 32320 | Possess Controlled Substance Unless Auth On Premises Of A Correctior | 217.360 | Med | 333 | 157 | 3.2 | 47% |
| 32322 | Deliver/Attempt To Del/Pos/Dep/Conceal Cont/Subs At Correct/Facility | 217.360 | Med | 51 | 27 | 3.7 | 53% |
| 32327 | Controlled Substance In Correction Facil Except With A Written Prescri | 221.111 | Med | 149 | 61 | 4.0 | 41% |
| 32450 | Possession Of Controlled Substance | 195.202 | Med | 31,984 | 4,465 | 4.5 | 14% |
| 32531 | Appr/Mater Under \$500/The Intent To Manuf/Compound/Prepare/Test C | 570.030 | Med | 10 | 2 | 4.0 | 20% |
| 32255 | Keeping Or Maintaining A Public Nuisance | 195.130 | Low | 59 | 10 | 4.2 | 17% |
| 32483 | Unlawful Endangerment Of Property | 195.219 | Low | 1 | - | - | 0% |
| 32581 | Acted As Wholesale Drug Or Pharmacy Dis- Tributor Without Obtainin | 338.333 | Low | 1 | - | - | 0% |
| 32591 | Sale Of Drugs By Out-Of-State Distributor Without License | 338.340 | Low | 5 | - | - | 0% |

Class D Drugs

| Offense | Description | RSMO Statute | Offense Severity | Sentence Count | of which Prison | Ave. Prison Sent. Yrs. | Ave. Percent Prison Disp. |
|---------|--|--------------|------------------|----------------|-----------------|------------------------|---------------------------|
| 32487 | Provide Reagents/Solvents/Percut Matl W Int To Produce Cont Subst | 195.226 | High | 32 | 12 | 3.4 | 38% |
| 32527 | Appropriate Und 150 W Int To Manf/ Prod/Etc Amphet/Methamphetamine | 570.030 | High | 15 | 4 | 4.0 | 27% |
| 32529 | Appropriate Material Less/\$500 W/Intent To Manf,Test Meth | 570.030 | High | 7 | 4 | 4.0 | 57% |
| 32565 | Poss W/Intent To Mfg Compound Convert Test Alter Chem To Controle | 195.420 | High | 8 | 2 | 4.5 | 25% |
| 32610 | Possession Of Anhydrous Ammonia In A Nonapproved Container | 578.154 | High | 99 | 37 | 3.3 | 37% |
| 32506 | Unlawful Use Of Drug Paraphernalia Amphetamine/Methamphetamine | 195.233 | Med | 449 | 115 | 3.7 | 26% |
| 32510 | Deliver/Possess/Manufacture With Intent To Deliv Drug Paraphernalia | 195.235 | Med | 262 | 60 | 3.5 | 23% |
| 32520 | Deliver Possess Or Manuf W/Intent To Deliver Imitation Contr Substan | 195.242 | Med | 294 | 47 | 3.4 | 16% |
| 32526 | Possess Ephedrine With Intent To Manufacture Methamphetamine | 195.246 | Med | 779 | 199 | 3.8 | 26% |
| 32550 | Seler, Purchaser Must Sign Rpt That Tran Sfer Was Made Report To De | 195.400 | Med | 13 | 1 | 5.0 | 8% |
| 32568 | Manuf/Whsalr-Fail Rept Susp Trans- Meth Precu Durg-Req By Sec 195 | 195.515 | Med | 2 | 1 | 2.0 | 50% |
| 32460 | Fraudulently Attempting To Obtain Controlled Substance | 195.204 | Low | 822 | 80 | 3.1 | 10% |
| 32528 | Sell/Label Any Drug Prod W/Ephe- Edrind Unapp Re Fed Monograph | 195.248 | Low | 6 | - | - | 0% |
| 32530 | Dist/Disp A Controlled Sub W/Out Obtaining A Regist | 195.252 | Low | 6 | - | - | 0% |
| 32540 | Manufact, Distributor Or Agent Or Employ To Deliver Controlled Subst | 195.254 | Low | 87 | 7 | 3.6 | 8% |
| 32545 | Mfg, Deliver, Poss With Intent To, A Con Trolle Subst In Container Fa | 195.256 | Low | 15 | - | - | 0% |
| 32560 | Sell Transf Furnish Recev Any Substance Without Registration (Effect 7 | 195.405 | Low | 8 | 1 | 3.0 | 13% |
| 32570 | Knowingly Pur Or Recv Drugs From Other Than Licensed Or Registered | 338.315 | Low | 1 | - | - | 0% |
| 55350 | Violation Of Federal Narcotic Laws | 21U.SC8 | Low | 2 | - | - | 0% |

Any unlisted offense will have Medium severity.

Recommended Sentences for DWI Offenses

| | | Prior Criminal History | | | | |
|----------------------------|----------------------------|------------------------|-----------|-----------|----------|---------|
| | | Level I | Level II | Level III | Level IV | Level V |
| Felony Class | | | | | | |
| <i>Data 2004</i> | | | | | | |
| Class D | Percent Prison Disposition | 8.2% | 24.1% | 56.7% | 59.7% | 66.1% |
| | Ave. Prison Sentence | 2.9 | 3.3 | 3.3 | 3.5 | 3.7 |
| Persistent Offender | | | | | | |
| | Mitigating | Probation | CSS | 5 | 6 | 7 |
| | Presumptive | CSS | CSS | 5 | 6 | 7 |
| | Aggravating | Shk/Trt | Shk/Trt | 5 | 6 | 7 |
| Committed | | | | | | |
| | Mitigating | Probation | Probation | CSS | Shk/Trt | 2 |
| | Presumptive | Probation | CSS | Shk/Trt | 2 | 3 |
| | Aggravating | Shk/Trt | Shk/Trt | 2 | 3 | 4 |
| Attempt | | | | | | |
| | Mitigating | Probation | Probation | Probation | Shk/Trt | 2 |
| | Presumptive | Probation | Probation | CSS | CSS | Shk/Trt |
| | Aggravating | Shk/Trt | Shk/Trt | 2 | 3 | 4 |

Aggravating Factors

- The defendant possessed a dangerous or deadly weapon during the commission of the offense and has not been convicted of an offense that includes the possession of a dangerous or deadly weapon.
- The defendant has also been convicted of a violent offense (felony, misdemeanor or infraction) committed during the commission of the offense.
- The defendant has more than two prior convictions of the offense of driving while intoxicated third offense or has two or more convictions for driving while intoxicated third offense undischarged, including the current conviction.
- The defendant caused severe financial loss to the victim of the driving offense. There has been loss of business, employment or serious financial loss when the value of the loss is not included in the offense for which the defendant has been convicted.
- The defendant caused severe physical or emotional trauma to the victim of the offense. The victim has required medical or mental health intervention and the impact of the trauma is not included in the offense for which the defendant has been convicted.
- The defendant committed the offense while under supervision by a federal, state or local authority on another charge.
- Any other aggravating factors reasonably related to the purposes of sentencing, as specified by the court or by the sentence assessment report.

Mitigating Factors

- The defendant has made or is making restitution to the victim.
- For offenses related to drug or alcohol dependency, the offender has agreed to enter or has entered a drug or alcohol treatment program and there is a plan for continuing relapse prevention. Not to apply if the sentence involves placement in a drug or alcohol treatment program.
- The defendant used caution to avoid risk or injury to others and caused no injury, financial loss or trauma to the victim. Not to apply when the offender has been convicted of the attempt of the offense.
- The defendant has cooperated with law enforcement.
- The defendant has had a substantial period of crime-free living prior to the commission of the offense (five years or more)
- Any other mitigating factors reasonably related to the purposes of sentencing, as specified by the court or by the sentence assessment report.

DWI Offenses

Class D DWI

| Offense | Description | RSMO Statute | Offense Severity | Sentence Count | of which Prison | Ave. Prison Sent. Yrs. | Ave. Percent Prison Disp. |
|---------|---|--------------|------------------|----------------|-----------------|------------------------|---------------------------|
| 47430 | Operated Mtr Veh While In An Intoxicated Condition (Drug Intoxication) | 577.010 | Med | 90 | 20 | 3.8 | 22% |
| 54310 | Operation Of A Watercraft While Intoxicated, 3Rd & Subsqnt Off | 306.111 | Med | 2 | 1 | 5.0 | 50% |
| 47410 | Operated Mtr Veh While In An Intoxicated Condition (Alcohol Intoxication) | 577.010 | Med | 10,607 | 2,550 | 3.6 | 24% |
| 47470 | Excessive Bac-Persistent Offender | 577.012 | Med | 74 | 6 | 3.7 | 8% |
| 47450 | Operated Mtr Veh While In An Intoxicated Condition (Combined Alc/D) | 577.010 | Med | 215 | 15 | 3.3 | 7% |

Any unlisted offense will have Medium severity.

FELONY CLASSIFICATION OF OFFENSES WITHOUT A FELONY CLASS FOR THE RECOMMENDED SENTENCES

The following felony offenses without a classification have been given a felony class from A to D based upon average prison sentences. Offenses with an average prison sentence of 10 years or more are assigned Class A, average sentences from 8 to 9 years are assigned Class B, offenses with an average sentence from 5 to 7 years are assigned Class C and sentences 4 years or less are assigned Class D. The offenses are included in the appropriate offense and felony class group.

| Offense Group | Offense | Description | RSMO Statute | Felony Class for Rec. Sen | Offense Severity | Sentence Count | of which Prison | Ave. Prison Sent. Yrs. | Ave. Percent Prison Disp. |
|---------------|---------|--------------------------------|--------------|---------------------------|------------------|----------------|-----------------|------------------------|---------------------------|
| SEX | 11005 | FORCE RAPE-SEX INTERC BY FORCE | 566.03 | A | HIGH | 6 | 6 | 18.7 | 100 |
| SEX | 11010 | FORCIBLE RAPE WITH WEAPN OR PH | 566.03 | A | HIGH | 73 | 68 | 18.4 | 93.2 |
| SEX | 11082 | FORCIBLE SODOMY DEVIATE SEX IN | 566.06 | A | HIGH | 1 | 1 | 30 | 100 |
| SEX | 11084 | FORCIBLE SODOMY-DEVIATE SEXUAL | 566.06 | A | HIGH | 15 | 10 | 19 | 66.7 |
| SEX | 11088 | ATTEMPTED FORCIBLE SODOMY-ATTE | 566.06 | A | MED | 3 | 1 | 28 | 33.3 |
| SEX | 11008 | FORCIBLE RAPE-SEXUAL INTER- CO | 566.03 | A | LOW | 23 | 13 | 14.5 | 56.5 |
| SEX | 11012 | ATTEMPT FORCIBLE RAPE-ATTEMPT | 566.03 | A | LOW | 5 | 2 | 11.5 | 40 |
| SEX | 11025 | STATUTORY RAPE-1ST DEG SEX INT | 566.032 | A | LOW | 124 | 72 | 11.4 | 58.1 |
| SEX | 11095 | STAT SODOMY-1ST-DEVIATE SEX IN | 566.062 | A | LOW | 26 | 14 | 17.6 | 53.8 |
| SEX | 11097 | STAT SODOMY-1ST DEG-DEVIATE SE | 566.062 | A | LOW | 124 | 89 | 12.7 | 71.8 |
| SEX | 11032 | STAT RAPE-1ST DEG-SEX INTERCOU | 566.032 | B | MED | 10 | 6 | 9.3 | 60 |
| SEX | 11016 | ATTEMPT FORCE RAPE-ATTEMPT SEX | 566.03 | C | HIGH | 2 | 2 | 6 | 100 |
| NVI | 19320 | SALE OF UNREGISTERED SECURITIE | 409.301 | C | HIGH | 2 | 2 | 6.5 | 100 |
| NVI | 29370 | FAILURE TO APPEAR ON FELONY | 544.665 | D | HIGH | 152 | 80 | 3.1 | 52.6 |
| NVI | 37025 | FILING A FALSE MISSOURI INCOME | 143.941 | D | MED | 10 | 3 | 3 | 30 |
| NVI | 15152 | MORE THAN 1000 ARTCLS UNAUTHOR | 570.225 | D | LOW | 1 | 0 | 0 | 0 |
| NVI | 19150 | OBTAIN PUBLIC ASSISTANCE INFOR | 205.967 | D | LOW | 7 | 0 | 0 | 0 |
| NVI | 19300 | FRAUDULENT SECURITY PRACTICES | 409.101 | D | LOW | 4 | 0 | 0 | 0 |
| NVI | 19305 | MAKING FALSE OR MISLEADING STA | 409.41 | D | LOW | 1 | 0 | 0 | 0 |
| NVI | 33285 | SELLING INTOXICATING LIQUOR WI | 311.55 | D | LOW | 4 | 1 | 2 | 25 |
| NVI | 35080 | CLASS ONE ELECTION OFFENSES | 115.631 | D | LOW | 6 | 0 | 0 | 0 |
| NVI | 37015 | FAILURE TO FILE A MISSOURI INC | 143.931 | D | LOW | 17 | 0 | 0 | 0 |
| NVI | 37080 | ATTEMPTING TO EVADE OR DEFEAT | 143.911 | D | LOW | 3 | 0 | 0 | 0 |
| NVI | 37090 | FAILURE TO COLLECT OR PAY OVER | 143.921 | D | LOW | 3 | 0 | 0 | 0 |
| NVI | 46004 | OP CMV W/O SP FUEL LICENSE OR | 142.422 | D | LOW | 1 | 0 | 0 | 0 |
| NVI | 55250 | COUNTERFEITING | 18U.SC4 | D | LOW | 2 | 0 | 0 | 0 |
| NVI | 55261 | MAKING A FALSE AFFIDAVIT TO SE | 7US.C20 | D | LOW | 1 | 0 | 0 | 0 |
| NVI | 55290 | WILLFUL AND MALICIOUS INJURY T | 18U.SC1 | D | LOW | 1 | 0 | 0 | 0 |
| DRG | 32040 | DRUG VIOLATION - POSSESSION | 195.02 | A | MED | 17 | 2 | 11.5 | 11.8 |
| DRG | 32070 | DRUG VIOLATION - SELL | 195.02 | C | HIGH | 6 | 1 | 5 | 16.7 |
| DRG | 55350 | VIOLATION OF FEDERAL NARCOTIC | 21U.SC8 | D | LOW | 2 | 0 | 0 | 0 |

COMMUNITY STRUCTURED SENTENCING

The complete list of available community programs, outline of programs and eligibility requirements are contained in the document “Supervision Strategies and Treatment Alternatives” published by the Board of Probation and Parole.

State-Sponsored Community Sentencing Alternatives

| Program | Drug Courts | Electronic Monitoring Program | Alt-Care Program |
|-------------------------|---|---|--|
| Description | Treatment based alternatives to prison, jail and probation. The drug court may serve as a pre-plea diversion program or as post-plea that can accept probationers under revocation status and offenders released from 120 day and long term programs. Most drug court programs have a 12-24 month duration. Intensive supervision and treatment. Integrated and non-adversarial treatment approach. Partnerships with other public agencies and community based organizations. | A home based program providing enhanced control which is monitored 24 hours a day. The multi-phased program is usually 120 days in length. Single phase is 30 days. The court may place offenders on Electronic Monitoring at the time of sentencing or as a result of a violation during the period of probation. For offenders who have a need for more physical control. | An intensive out-patient treatment program for women who have demonstrated a need for substance abuse treatment and related support services. The program is multiphased and may last up to 2 years. Female offenders with substance abuse issues requiring intensive treatment. Pregnant women on medicaid or women with children will be given priority. |
| Program Criteria | Felony, misdemeanor drug or alcohol charge or drug/alcohol related offense. Most courts accept only non-violent first time offenders. | Offenders must have a viable, stable homeplan with a working telephone, prior to the referral to the Electronic Monitoring Program. | No serious physical or mental health problems. |
| Availability | At end of June 05 thirty four circuits had drug courts. Contact: Office of State Courts Ann.Wilson@courts.mo.gov . | Statewide | Available in Jackson and St. Louis Counties |
| Judicial Process | Charges must be filed with the court by the prosecuting attorney's office. Eligible participants are screened by the prosecutor, probation officer and treatment provider. | The Court may order Electronic Monitoring. Placement may be determined by the probation officer based on offender's risk and needs. | The Court may order the Alt-Care Program. Placement may be determined by the probation officer based on offender's risk and needs. |

State-Sponsored Community Sentencing Alternatives (continued)

| Program | TREND Program | Intensive Supervision Program | Local Resources |
|-------------------------|---|---|--|
| Description | <p>TREND is a rehabilitative program designed to assist male offenders in developing long term solutions to their non-productive behaviors pertaining to drug use, employment, education, life skills and criminality.</p> <p>This program provides a structured environment at the Kansas City Community Center with intensive out-patient treatment for the first two phases of the program. A residential program specifically for probationers who have never been to the Missouri Department of Corrections (120day call back probationers are acceptable)</p> <p>TREND IS NOT AN INPATIENT DRUG TREATMENT PROGRAM.</p> <p><i>Continued drug use in the TREND program will result in an unsuccessful discharge.</i></p> | <p>Intensive supervision is a multiphased program with a higher level of contacts between with the offender, the officer, significant others and community resources.</p> <p>Offenders who need training, treatment, and increased behavior management.</p> <p>Offenders who present a moderate to high risk and high casework needs.</p> | <p>Based on geographic location of an offender, local resources or programs may be utilized to address needs and risk.</p> <p>These resources may provide such services as group/individual/ family counseling, chemical dependency education/treatment, mental health diagnosis and/or intervention, and relapse prevention.</p> <p>Court may collaborate with local probation office to assess availability and appropriateness of local resource options.</p> <p>Based on admission criteria established by the designated local resource/program</p> |
| Program Criteria | | | |
| Availability | Kansas City | Statewide | Statewide, however, varies by geographical region |
| Judicial Process | The Court may order the TREND Program, Placement may be determined by the probation officer based on offender's risk and needs. | Placement is determined by the probation officer based on offender's risk and needs. | Placement and eligibility for a localized resource/program is determined by the probation officer. Court should contact the state probation office in their respective jurisdiction. |

Department Of Corrections (Institutional) Sentencing Alternatives

| Program Statute | Shock Incarceration Program 559.115 RSMo | Institutional Treatment Center 559.115 RSMo | Sex Offender Assessment Unit 559.115 RSMo |
|-------------------------|---|---|---|
| Description | Program emphasis on general lifeskills, substance abuse education, vocational guidance and the development of an appropriate community based home plan. | Highly structured treatment program with emphasis on criminality, life skills, relapse prevention, substance abuse treatment and community home plan development. | An intensive assessment program for sex offenders that provides a complete psychological assessment to determine an offender's extent of psychopathology, risk to reoffend and amenability to treatment. Offers basic relapse prevention education. |
| Program Criteria | <p>Male or female</p> <p>Offenders convicted of Murder II, Forcible or Statutory Rape, Forcible or Statutory Sodomy, Child Molestation I (B Felony), Abuse of a Child (A Felony), or a predatory sex offender cannot be sentenced pursuant to 559.115.</p> <p>Serious mental/physical health problems which prevent an offender from benefitting from this program may preclude eligibility.</p> <p>Offenders are housed in general population.</p> <p>No sex offenders</p> | <p>Male or female</p> <p>Must have an active substance problem and failed attempts in community treatment.</p> <p>Offenders convicted of Murder II, Forcible or Statutory Rape, Forcible or Statutory Sodomy, Child Molestation I (B Felony), Abuse of a Child (A Felony), or a predatory sex offender cannot be sentenced pursuant to 559.115.</p> <p>Male offenders with documented, diagnosed mental health and substance abuse issues should be referred to the Co-Occurring Disorders Program, pursuant to RSMo 559.115.</p> <p>No sex offenders</p> | <p>Male only</p> <p>No Alford Plea or pending appeal</p> <p>Offenders convicted of Murder II, Forcible or Statutory Rape, Forcible or Statutory Sodomy, Child Molestation I (B felony), Abuse of a Child (A Felony) or a predatory sex offender cannot be sentenced pursuant to 559.115.</p> <p>Serious mental or physical health problems which prevent an offender from benefiting from treatment may preclude eligibility.</p> <p>A PSI must be completed.</p> |
| Judicial Process | Reservations Required Sentencing pursuant to RSMo 559.115 (no specific program recommendation needed) | Reservations Required Sentencing pursuant to RSMo 559.115 with recommendation for Institutional Treatment Center (ITC). | After PSI complete, sentencing pursuant to RSMo 559.115 with recommendation for Sex Offender Assessment Unit (SOAU). |

Department Of Corrections (Institutional) Sentencing Alternatives (continued)

| Program Statute | MO Post Conviction Drug Program 217.785 RSMo | Long Term Drug Program 217.362 RSMo |
|-------------------------|---|--|
| Description | Substance abuse program with two phases. Phase I is within the community and Phase II is an Institutional Treatment Center. | Highly structured, long term therapeutic community treatment program for serious substance abusers. Uses self and mutual help, peer pressure and role modeling to achieve recovery goal. |
| Program Criteria | Male or female First time offender Offense is violation of RSMo 195 OR substance abuse was a precipitating factor in the commission of the offense Active addiction to controlled substance(s) (Alcohol only not eligible) Serious mental or physical health problems which prevent an offender from benefitting from treatment may preclude eligibility INTO PHASE II. | Literate male or female Documented substance addiction The offender must be found to be a chronic non-violent offender. (must have at least THREE non-violent felony findings of guilt.) A felony SIS probation is considered a finding of guilt. No present sex offenders. Will take prior sex offenders if MOSOP was completed. |
| Judicial Process | No sex offenders in PHASE II. Order for SIS or SES probation with a special condition for Post-Conviction Treatment RSMo 217.785. MUST SPECIFY EITHER PHASE I OR PHASE II. | Offense must be statutorily eligible for probation. Reservations Required Sentence of at least a total of 4 years pursuant to RSMo 217.362 with recommended placement in the Long Term Substance Abuse Program. |

In addition to supervision alternatives provided by the Missouri Department of Corrections, there may be local programs available in particular counties or court circuits.

SENTENCING ASSESSMENT REPORT

The Sentencing Assessment Report is intended to provide the Court with information regarding risk and related factors necessary in the determination of an appropriate sentencing decision. The report incorporates Sentencing Commission standards in conjunction with an identification of the offender's risk level, based on the nature and severity of the offense, prior criminal history, and other relevant factors. Information is provided in the report to assist the Court in determining the impact of the offense on the victim. The report also provides information to the Court regarding available department programs and resources necessary to support the court's sentencing decision and effectively manage the offender's presenting risk level and factors. In addition, the report provides the Court with parole release eligibility based on the sentence structure and Parole Board salient factor guidelines. This report helps the Department of Corrections with assessment, supervision, and management of the offender.

The probation and parole officer compiles the information for the Sentencing Assessment Report via a guided interview with the offender and an investigative process. The format for the report consists of the Introduction; a Risk Assessment Summary (present offense circumstances and severity, prior criminal history, victim impact, and an assets and liabilities assessment); the Offender Management Plan (community sentence strategy options, institutional program/service options, and re-entry/transitional planning considerations); and Conclusion (evaluation and recommendation based on Sentencing Commission standards, parole release eligibility and average time served for offenders with similar risk in the previous fiscal year).

The itemized offender risk score will also be listed.

The Sentencing Assessment Report (SAR) provides valuable information to the Court for its consideration in the sentence decision-making process, in terms of identifying key offender risk indicators, incorporating Sentence Commission standards, and outlining available department resources and strategies necessary to support the Court's sentencing decision.

The results of a survey conducted by the University of Missouri Columbia's Institute of Public Policy to measure the response of judges to the SAR is included as Appendix G.

Sentencing Assessment Report Format

I. Offender Identifying Information

- Name, social security number, date of birth, gender, race
- Court information, including offense class and charge code
- Existence of a plea agreement (if known)

II. Risk Assessment

A. Present Offense Information

- Concise summary of the offense (nature & severity)
- Offender's version

B. Criminal History

Findings of guilt - to include prior and/or present supervision history, incarceration history.

C. Victim Impact Statement

D. Offender Asset and Liability Assessment (including the Offender Risk Assessment)

- Scored Risk Assets: The variables that have decreased the risk score in the offender risk assessment.
- Scored Risk Liabilities: The variables that have increased the risk score in the offender risk assessment.
- Other Assessment Factors: Residency, financial, social/behavioral, physical health family/significant others/associates, and military)

III. Offender Management Plan

Department resources to support the sentencing decision

- Community sentence strategy options (Court jurisdiction)
- Institutional program/service options (Board jurisdiction)
- Re-entry considerations (transitional planning)

IV. Conclusion

Evaluation/recommendation

- Sentencing Commission standards: Prior criminal history level, offense severity.
- The presumptive sentence with the mitigating and aggravating sentences as a range and the officer's recommendation to grant or deny a probationary sentence.
- Total scoring of the offender risk and the risk scale.
- Parole release eligibility (guideline percent of sentence and average percent time served by offenders of similar risk) or special sentencing conditions if they apply.

V. Itemized listing of the offender risk components

Example of a completed Sentencing Assessment Report (all identifying information has been changed)

**Board of Probation and Parole
INVESTIGATION**

To Honorable JOHN F. SMITH

Division: XXXX

Type of Investigation: Sentencing Assessment

Name: KILEY, RICHARD

DOC ID: xxx

REQUESTED OF

| | | | | | |
|------------------|--------------------------------|----------|-------------------|------------------------|------------|
| Officer: | XXXXX | JOE BLOW | Req. Date: | 04/14/2005 | |
| District: | DISTRICT XX PROBATION & PAROLE | | | Completed Date: | 05/25/2005 |
| Address: | DIELMAN ROCK ISLAND IND | | | | |
| | OLIVETTE | MO 63132 | | | |
| Phone: | XXX-XXX-XXXX | | | | |

I. Offender Identifying Information

Date of Birth: 02/23/1978 Gender: M Race: W SSN: xxx-xx-xxxx

Plea Agreement Yes No Unknown

Offense: TRAFFICKING IN DRUGS 2ND DEGREE

| | |
|---|---------------------------|
| Cause Number: XXXX-XXXX | Class: A Felony |
| Judge/Division: SMITH, JOHN | County: ST. LOUIS |
| Prosecuting Attorney: KABOB, BOB | MoCode: 32495..990 |
| Defense Attorney: LOST, LOUIS | |
| Date of Plea/Finding of Guilt: 04-14-2005 | |
| Date of Sentencing: 06-09-2005 | |

II. Risk Assessment Summary

A. Present Offense Information

Offense Summary: On 3-29-2004 at about 2:00 P.M. police observed a car being driven by Richard Kiley fail to make a complete stop at a stop sign. Kiley then sped off and stopped in a parking lot where police observed him exit the car and throw two plastic bags across the parking lot. The bags were recovered and determined to contain crack cocaine. Kiley was arrested and a search of his car revealed another bag of crack cocaine underneath the driver's seat. Kiley was found to have numerous active warrants for his arrest. At the police station he stated that he had been returning from a drug run where the buyer failed to show up. While he was driving he observed police behind him, became nervous and tried to speed off to lose police. When he stopped and exited his car he saw police pull up, at which time he threw the two bags of crack cocaine. The three bags of crack cocaine weighed a total of 23.73 grams.

Offender's Version:

When interviewed by this writer concerning the present offense Kiley stated, "I was driving to my cousin's house and I saw two unmarked police cars. They got behind me and I parked on a parking lot and they searched my car and said they found another bag in there. The stuff in the parking lot was not mine. The stuff in the car, I guess it was mine, but I didn't know it was in there . . . But I pled guilty so I might as well say I was selling because I don't want to make it sound like I'm lying." Asked a question

to determine if he had any remorse for his actions, Kiley stated, "I feel bad about it. I got two kids, I'm twenty-seven years old, I believe there's more to life than this."

Co-Defendants: None

B. Criminal History

| DATE | LOCATION | OFFENSE | DISPOSITION |
|------------|----------------|---------------|---------------|
| 04-10-1996 | St. Louis City | Poss. C/S (F) | PG: Probation |

Cause #XXX-XXXX: Police reports regarding this arrest reflect that police observed Kiley sell two pieces of crack cocaine to another man on a vacant lot. After being arrested, Kiley was found to have several more pieces of crack cocaine in his possession. He pled guilty to Possession of a Controlled Substance – Cocaine (F) on 02-19-1997 and was placed on a two year SIS probation. On 03-01-1999 that probation was continued for two years. Kiley completed the probation on 02-18-2001. While on this probation he incurred violations for a new arrest, failure to report, failure to complete community service, failure to maintain employment, failure to complete the Day Report program, and drug use.

In addition to the above conviction, Kiley has incurred arrests for the following offenses which were not prosecuted, dismissed, or whose dispositions could not be determined: Possession of Controlled Substance (F), Tampering 2nd (F), Possession of Marijuana (M), Tampering 2nd (M) Domestic Assault 3rd (M), Making False Declaration (M), Trespassing on Private Property (C), Minor in Possession of Intoxicants (C), Peace Disturbance (C), Possession of Controlled Substance (C), Gambling (C), and Street Demonstration (C). He has also been convicted of numerous traffic offenses, some of which resulted in brief jail sentences.

C. Victim Impact

Victims Name(s): State of Missouri

Does Victim Want to Testify at Sentencing: N/A

Victim Impact: N/A

D. Offender Asset and Liability Assessment

Risk Assets: No prior prison incarcerations; 5 years conviction/incarceration free prior to assessment; no revocations of probation/parole; Present offense not recidivist related; No prior escapes;

Risk Liabilities: One prior finding of guilt; substance abuse history; high school dropout; unemployed and at time of commission of present offense.

Kiley dropped out of Sumner High School while in the ninth grade and has not since furthered his education, though he expressed an intention to attend GED classes. He is currently unemployed, having last worked several months ago on an occasional basis with a temporary service. He has a sketchy prior work history, saying his most significant job has been laying carpet with an uncle on and off since the age of nineteen. He has no significant physical or mental health history. He described himself as a casual drinker whose use of alcohol has never been problematic. Kiley related that the only illegal drug he has ever used is marijuana. He began smoking that drug at the age of eighteen. Kiley said he smoked that drug frequently for a couple of years until placed on probation. While on probation he tested positive for marijuana use in 1997 and 1999. He claimed he has not smoked marijuana in three or four years. He reported that he has never attended substance abuse treatment, though his probation records say he was referred to a substance abuse education class in 1999.

Other Assessment Factors: Kiley is one of two children to Sheila Kiley and Dan Thrill. His parents did not marry and split up when he was a small child. Kiley said he has never really had a relationship with this father and has not had contact with him in about seven years. Kiley was raised primarily by his mother and an aunt. He reported a decent childhood and denied any juvenile legal history. He has never married but has been involved in a serious relationship for the past couple of years with Barbie Dall. They have discussed marrying in the future. They have a six-month-old daughter, Ali. Kiley also has another child, seven-year-old Richard, Jr. from a previous relationship with Becky Thatch. That child lives with Thatch and Kiley has weekend visits. He does not pay formal child support but claimed he helps financially with his son.

III. Offender Management Plan

Supervision Plan: The primary component of either an institutional or community placement is the need to reduce Kiley's risk level by addressing his association with drugs, his lack of education, and his lack of employment.

Home Offer: If placed on probation, Kiley will reside with his girlfriend at 8653 Fox Circle, Apt. A, Lemmings, MO 63111, Ph: xxx, Cell Ph: xxx. He will be supervised by District XX.

Employment Offer: To Be Obtained

Strategies/Community: Probation or Community Structured Sentencing. Special conditions may include: Shock jail time; CHOICES program; Community Service; REACT program; Post-plea Drug court or other substance abuse treatment; obtain GED

Strategies/Institution: Shock Incarceration Program (SIP) or Institutional Treatment Center (ITC), both pursuant to RSMo 559.115. Kiley's projected in date for either program is 07-11-2005.

IV. Conclusion

Criminal History Risk Level: Level II (No incarcerations and no more than two felony convictions.)

Offense Severity: Drug Offense, Class A felony, MEDIUM.

Sentencing Commission Recommendation:

PRESUMPTIVE: Community Structured Sentencing

Mitigating: Probation

Aggravating: Shock Probation or Drug Treatment

Probation Officer's Recommendation:

Grant Probation/CSS on conditions set forth in Offender Management Plan.

Deny Probation/CSS; refer to Offender Management Plan.

Deny Probation/CSS with consideration for institutional treatment center placement; refer to Offender Management Plan.

Probation Officer's Recommendation Not Applicable; statute requires mandatory prison sentence.

Respectfully submitted,

Note: There are no Parole Guideline or actual prison time served information in this example because the Sentencing Commission range of recommended sentences did not include a prison sentence.

Itemized Listing of the Offender Risk Components – Risk Factors and Values

1. Prior Unrelated Misdemeanor Findings of Guilt 0
(0) Three or less
(-1) Four or more
2. Prior Unrelated Felony Findings of Guilt 0
(1) None
(0) One
(-1) Two or more
3. Prior Prison Incarcerations 0
(0) None
(-1) One or more
4. 5 years without a finding of guilt or incarceration 1
(1) Yes
(0) No
5. Revocations of probation and parole 0
(0) No
(-1) Yes
6. Recidivist-related present offense 0
(0) No
(-1) Yes
7. Age 0
(2) 45 and over
(1) 35 – 44
(0) 22 – 34
(-1) Under 22
8. Prior escape 0
(0) No
(-1) Yes
9. Substance abuse 0
(1) No
(0) Yes
10. Education 0
(1) GED/12 grade or higher
(0) Below 12 grade
11. Employment -1
(1) Full Time/3 months or more
(0) Part Time or FT<3 months
(-1) Unemployed

TOTAL 0

Risk Ranges:

| | |
|-----------|----------|
| Good | 4 to 7 |
| Above Avg | 2 to 3 |
| Average | 0 to 1 |
| Below Avg | -1 to -2 |
| Poor | -3 to -8 |

A STUDY OF SENTENCING DISPARITY

The study covers three topics: Sentencing in Missouri compared to other states, differences in sentencing by circuit courts and differences in sentencing between different racial groups.

Sentencing and Time Served in Missouri compared to Other States in the US.

The National Corrections Reporting Program (NCRP) published by the Bureau of Justice Statistics for 2000 indicated that offenders in Missouri serve about three months longer in prison than the national average; however, as a percent of sentence time served, Missouri is similar to the national average (43%). From DOC records and the NCRP report for 1993 and 2000, it is apparent that that time served has increased not only in Missouri but also in other states over the last ten years.

For many offenses, the average sentence in Missouri is higher than in other states. The average sentence reported for all states in the US was 65 months and 72 months in Missouri.

Average Sentence and Time Served to First Release (1993 and 2000)

Time Served to First Release (1993 and 2000)

| Year | All State Prisons | | | Missouri | | |
|------|-------------------|--------------------|----------------|---------------|--------------------|----------------|
| | Max. Sentence | Prison Time Served | Percent Served | Max. Sentence | Prison Time Served | Percent Served |
| 1993 | 66 | 21 | 31.8% | 68 | 23 | 34.4% |
| 2000 | 65 | 28 | 43.1% | 72 | 31 | 43.3% |

Source: NCRP reports (BJS) and DOC records

Average sentence and Time Served to First Release By NCIC Offense (2000)

| | All State Prisons | | | Missouri | | |
|------------------------------|-------------------|--------------------|----------------|---------------|--------------------|----------------|
| | Max. Sentence | Prison Time Served | Percent Served | Max. Sentence | Prison Time Served | Percent Served |
| <i>Violent Offenses</i> | | | | | | |
| Homicide | 165 | 90 | 54.5% | 175 | 102 | 58.3% |
| Rape | 150 | 76 | 50.7% | 147 | 78 | 53.1% |
| Robbery | 104 | 49 | 47.1% | 147 | 78 | 53.1% |
| Assault | 67 | 31 | 46.3% | 79.8 | 39.8 | 49.9% |
| <i>Property offenses</i> | | | | | | |
| Burglary | 88 | 30 | 34.1% | 66.6 | 24.2 | 36.3% |
| Larceny | 47 | 19 | 40.4% | 56.8 | 19.7 | 34.7% |
| Auto theft | 40 | 18 | 45.0% | 59.3 | 22.3 | 37.6% |
| Fraud | 47 | 18 | 38.3% | 38.6 | 11.7 | 30.3% |
| Stolen Property | 47 | 21 | 44.7% | 53.5 | 17.5 | 32.7% |
| <i>Drug Offenses</i> | | | | | | |
| Possession | 57 | 16 | 28.1% | 50.3 | 13.5 | 26.8% |
| Trafficking | 76 | 24 | 31.6% | 86.8 | 33.9 | 39.1% |
| <i>Public Order Offenses</i> | | | | | | |
| Weapons | 53 | 22 | 41.5% | 79.3 | 40.9 | 51.6% |
| DWI | 41 | 14 | 34.1% | 42.4 | 15.6 | 36.8% |
| All Offenses | 65 | 28 | 43.1% | 72.1 | 31.2 | 43.3% |

National Crime Reporting Data (FBI) and DOC records

Sentencing Differences Between Courts

When circuits are compared by sentence disposition or by average prison sentence, there is a wide variation in sentencing practice. Using the sentence data compiled by the Department of Corrections for FY03, the 45 Missouri circuit courts have been ranked using three measures:

1. Prison sentences as a percentage of all dispositions
The range is from 43% for circuit 18 (Cooper and Pettis counties) down to 14% for circuit 41 (Macon and Shelby). The average percentage is 24%. St. Louis City (23%) and St. Louis County (21%) are slightly below the average and Jackson County (18%) is in the third quartile. Many of the large first class counties outside of the metropolitan areas are in the top quartile, see page 56.
2. Shock and Treatment Sentences as a percentage of Prison and Shock and Treatment Dispositions
The range is from 54% for circuit 35 (Dunklin and Stoddard) down to 17% for circuit 18 (Cooper and Pettis counties). The average percentage is 33%. Jackson County (39%) is in the second quartile and St. Louis City (27%) and St. Louis County (23%) are in the third quartile, see page 57.
3. Average Prison Sentences
St. Louis City has the highest average prison sentence (9.3 years) and Circuit 32 (Bollinger, Cape Girardeau and Perry) has the lowest average sentence (4.7 years), see page 58.

Although these rankings indicate that sentencing standards appear very different between courts, small numbers may add to variability and there may be differences in the level of crime, the type of crime and in the prior criminal history of the offender population that are not considered. For example, St. Louis City has a higher percentage of violent crime than other court circuits and that could explain the high average prison sentence. The high volume of crime in St. Louis may explain the low proportion of sentences that result in a prison sentence.

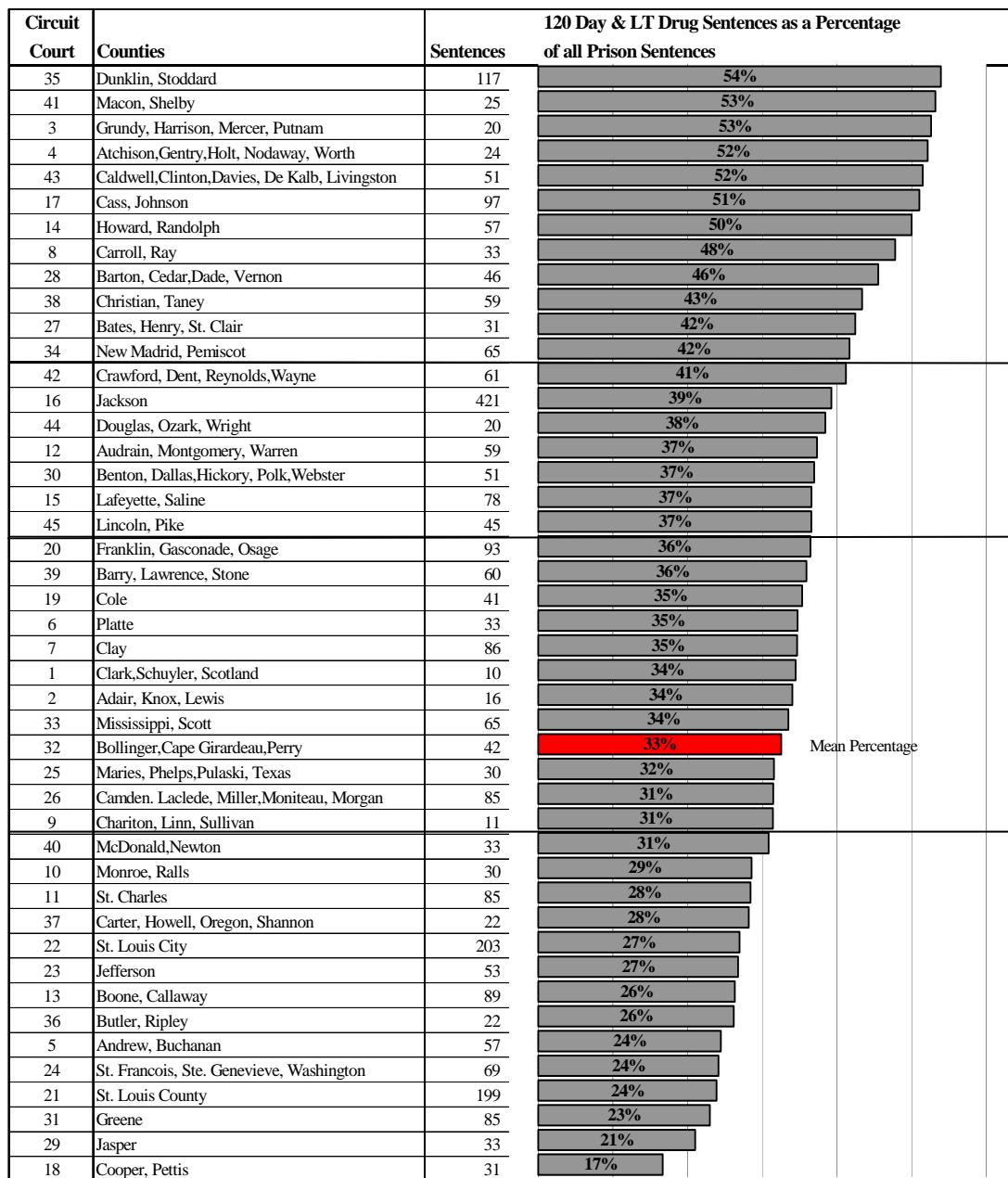
To account for some of the underlying factors, the data has been aggregated into three types of circuit court based upon the size of the resident population and sentencing has been compared for similar offense groups. This analysis is presented after the circuit court ranking charts.

Sentence Dispositions in FY03
Prison Sentences as a Percentage of all Dispositions
Circuit Courts Ranked in Descending Order

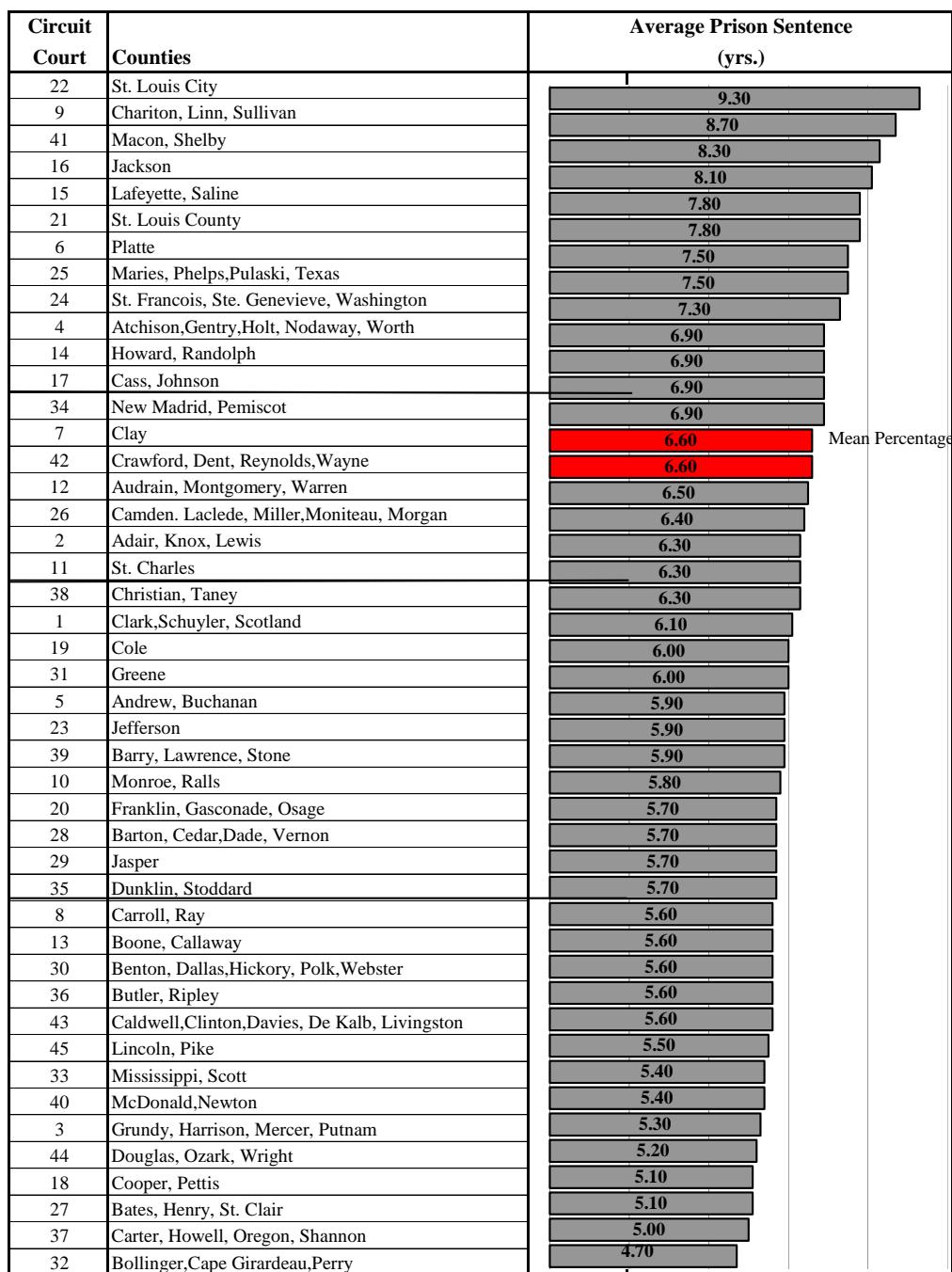
| Circuit Court | Counties | Term Sentences | Prison Sentences as a Percentage of all Dispositions |
|---------------|--|----------------|--|
| 18 | Cooper, Pettis | 155 | 43% |
| 7 | Clay | 162 | 42% |
| 24 | St. Francois, Ste. Genevieve, Washington | 217 | 38% |
| 13 | Boone, Callaway | 249 | 36% |
| 29 | Jasper | 124 | 34% |
| 5 | Andrew, Buchanan | 176 | 34% |
| 10 | Monroe, Ralls | 75 | 33% |
| 19 | Cole | 75 | 32% |
| 23 | Jefferson | 145 | 28% |
| 15 | Lafayette, Saline | 135 | 27% |
| 6 | Platte | 62 | 26% |
| 20 | Franklin, Gasconade, Osage | 162 | 26% |
| 33 | Mississippi, Scott | 129 | 25% |
| 36 | Butler, Ripley | 62 | 24% |
| 26 | Camden, Laclede, Miller, Moniteau, Morgan | 185 | 23% |
| 1 | Clark, Schuyler, Scotland | 19 | 23% |
| 31 | Greene | 285 | 23% |
| 34 | New Madrid, Pemiscot | 91 | 23% |
| 11 | St. Charles | 214 | 23% |
| 45 | Lincoln, Pike | 78 | 23% |
| 22 | St. Louis City | 550 | 23% |
| 30 | Benton, Dallas, Hickory, Polk, Webster | 87 | 22% |
| 40 | McDonald, Newton | 74 | 22% |
| 21 | St. Louis County | 634 | 21% |
| 12 | Audrain, Montgomery, Warren | 99 | 21% |
| 44 | Douglas, Ozark, Wright | 32 | 21% |
| 14 | Howard, Randolph | 57 | 21% |
| 17 | Cass, Johnson | 93 | 20% |
| 9 | Chariton, Linn, Sullivan | 24 | 20% |
| 35 | Dunklin, Stoddard | 100 | 19% |
| 2 | Adair, Knox, Lewis | 31 | 19% |
| 28 | Barton, Cedar, Dade, Vernon | 55 | 19% |
| 37 | Carter, Howell, Oregon, Shannon | 56 | 19% |
| 16 | Jackson | 651 | 18% |
| 39 | Barry, Lawrence, Stone | 107 | 18% |
| 25 | Maries, Phelps, Pulaski, Texas | 65 | 18% |
| 43 | Caldwell, Clinton, Davies, De Kalb, Livingston | 48 | 17% |
| 32 | Bollinger, Cape Girardeau, Perry | 87 | 17% |
| 4 | Atchison, Gentry, Holt, Nodaway, Worth | 22 | 17% |
| 27 | Bates, Henry, St. Clair | 42 | 17% |
| 8 | Carroll, Ray | 36 | 17% |
| 42 | Crawford, Dent, Reynolds, Wayne | 87 | 16% |
| 38 | Christian, Taney | 77 | 16% |
| 3 | Grundy, Harrison, Mercer, Putnam | 18 | 14% |
| 41 | Macon, Shelby | 22 | 14% |

Mean Percentage

Sentence Dispositions in FY03
120 Day & LT Drug Sentences as a Percentage of all Prison and Treatment/ Shock Sentences
Circuit Courts Ranked in Descending Order



Average Prison Sentence in FY03
By Circuit Court



Comparing sentencing when grouped into three categories based upon size of population (Metropolitan, Other First Class Counties and Rural) indicates that the greatest differences are between the metropolitan areas and the rest of the state. The metropolitan areas have the highest prison sentences but the lowest percentage of prison sentences. Rural counties have a slightly higher percentage of shock and treatment sentences than other first class counties. Between the St. Louis metro area and the Kansas City metro area there is a significant difference in the use of shock and treatment programs, (25% for St. Louis metro and 39% for Kansas City metro).

Sentencing Disposition in FY03
Metro, First Class and Rural Circuits

| Circuits | Sentences | Percent Disposition | | | | Average Prison Sentence (yrs) |
|-------------------|-----------|---------------------|------------------|--------|---------------------|-------------------------------|
| | | Probation | Shock/ Treatment | Prison | Percent of Sentence | |
| Metro area | 8,685 | 68.3 | 10.2 | 21.5 | 100.0 | 8.1 |
| Other First Class | 7,210 | 59.3 | 12.4 | 28.3 | 100.0 | 5.9 |
| Rural Counties | 8,934 | 62.0 | 14.2 | 23.8 | 100.0 | 6.1 |
| Total | 24,829 | 63.4 | 12.3 | 24.3 | 100.0 | 6.7 |

The metropolitan area comprises St. Louis City, St. Louis County and Jackson County, the other first class counties include circuits 5th, 6th, 7th, 11th, 13th, 17th, 19th, 20th, 23rd, 26th, 29th, 31st, and 32nd. The rural circuits comprise the remainder.

Comparing the three areas for similar offenses reduces the disparity in prison sentences but the differences in disposition remain. The metro areas have the lowest percent of sentences receiving prison sentences. This is true for drugs, DWI and other non-violent offenses. For violent offenses there is a much greater similarity in sentencing. For Class A, B and C felony violent offenses there is very little difference in disposition or prison sentence between the metropolitan counties and the other counties. For Class D violent offenses there is a difference.

Drug Offenses

| Circuits | Sentences | Percent Disposition | | | | Average Prison Sentence (yrs) |
|-------------------|-----------|---------------------|------------------|--------|---------------------|-------------------------------|
| | | Probation | Shock/ Treatment | Prison | Percent of Sentence | |
| Metro area | 3,508 | 75.3 | 11.6 | 13.1 | 100.0 | 6.1 |
| Other First Class | 2,187 | 64.8 | 12.9 | 22.3 | 100.0 | 5.5 |
| Rural Counties | 2,975 | 59.9 | 18.5 | 21.7 | 100.0 | 6.2 |
| Total | 8,670 | 67.3 | 14.3 | 18.4 | 100.0 | 5.9 |

DWI Offenses

| Circuits | Sentences | Percent Disposition | | | | Average Prison Sentence (yrs) |
|-------------------|-----------|---------------------|------------------|--------|---------------------|-------------------------------|
| | | Probation | Shock/ Treatment | Prison | Percent of Sentence | |
| Metro area | 406 | 63.6 | 19.7 | 16.8 | 100.0 | 4.9 |
| Other First Class | 902 | 49.0 | 23.0 | 28.1 | 100.0 | 4.3 |
| Rural Counties | 772 | 52.4 | 24.4 | 23.2 | 100.0 | 4.3 |
| Total | 2,080 | 53.1 | 22.8 | 24.0 | 100.0 | 4.4 |

Non-Violent Offenses other than Drug and DWI Offenses

| Circuits | Sentences | Percent Disposition | | | | Average Prison Sentence (yrs) |
|-------------------|-----------|---------------------|------------------|--------|---------------------|-------------------------------|
| | | Probation | Shock/ Treatment | Prison | Percent of Sentence | |
| Metro area | 3,385 | 74.9 | 7.6 | 17.5 | 100.0 | 4.9 |
| Other First Class | 3,225 | 64.7 | 8.7 | 26.7 | 100.0 | 4.3 |
| Rural Counties | 3,992 | 70.8 | 8.9 | 20.2 | 100.0 | 4.3 |
| Total | 10,602 | 70.3 | 8.4 | 21.3 | 100.0 | 4.4 |

Violent Offenses

| Circuits | Sentences | Percent Disposition | | | | Average Prison Sentence (yrs) |
|-------------------|-----------|---------------------|------------------|--------|---------------------|-------------------------------|
| | | Probation | Shock/ Treatment | Prison | Percent of Sentence | |
| <i>Class A</i> | | | | | | |
| Metro area | 429 | 11.7 | 5.1 | 83.2 | 100.0 | 17.1 |
| Other First Class | 176 | 11.9 | 2.8 | 85.2 | 100.0 | 18.8 |
| Rural Counties | 160 | 8.1 | 6.3 | 85.6 | 100.0 | 17.7 |
| Total | 765 | 11.0 | 4.8 | 84.2 | 100.0 | 17.6 |
| <i>Class B</i> | | | | | | |
| Metro area | 362 | 27.4 | 14.4 | 58.3 | 100.0 | 9.0 |
| Other First Class | 144 | 20.1 | 16.0 | 63.9 | 100.0 | 9.2 |
| Rural Counties | 159 | 25.2 | 18.2 | 56.6 | 100.0 | 8.5 |
| Total | 665 | 25.3 | 15.6 | 59.1 | 100.0 | 8.9 |
| <i>Class C</i> | | | | | | |
| Metro area | 519 | 56.8 | 11.2 | 32.0 | 100.0 | 5.5 |
| Other First Class | 472 | 45.6 | 18.0 | 36.4 | 100.0 | 5.4 |
| Rural Counties | 691 | 50.1 | 16.5 | 33.4 | 100.0 | 5.5 |
| Total | 1,682 | 50.9 | 15.3 | 33.8 | 100.0 | 5.4 |
| <i>Class D</i> | | | | | | |
| Metro area | 52 | 80.8 | 11.5 | 7.7 | 100.0 | 4.5 |
| Other First Class | 94 | 63.8 | 13.8 | 22.3 | 100.0 | 3.7 |
| Rural Counties | 170 | 72.4 | 9.4 | 18.2 | 100.0 | 3.9 |
| Total | 316 | 71.2 | 11.1 | 17.7 | 100.0 | 3.9 |
| <i>Unclassed</i> | | | | | | |
| Metro area | 24 | 66.7 | - | 33.3 | 100.0 | 18.8 |
| Other First Class | 10 | 70.0 | - | 30.0 | 100.0 | 15.0 |
| Rural Counties | 15 | 40.0 | - | 60.0 | 100.0 | 13.9 |
| Total | 49 | 59.2 | - | 40.8 | 100.0 | 16.0 |

Sentencing Disparity by Race

It is an accepted fact in the US that incarceration affects racial groups differently and in Missouri is no exception. The incarceration rate for Blacks is over five times that of Whites.

Missouri Incarceration Rates by Race

| Race/Hispanic | Population 2000 Census | Incarcerated 31-Dec-03 | Incarceration Rate per 100,000 |
|---------------|---------------------------|---------------------------|--------------------------------------|
| Black | 626,664 | 12,368 | 1,974 |
| Hispanic | 117,499 | 413 | 351 |
| White | 4,750,334 | 16,919 | 356 |
| Other | 100,714 | 166 | 165 |
| Total | 5,595,211 | 29,866 | 534 |

There are many factors that play an important part in explaining incarceration differences between different populations. Because the commission has had only access to sentencing data, the commission has only studied the impact of offense type and prior criminal history upon disparity between racial or ethnic groups in Missouri.

Using the sentencing data for FY03, the comparison between the four racial or ethnic groups indicates that Blacks have the highest average prison sentence (7.8 years) compared to an average of 6.7 years for all offenders. The aggregate data does not indicate significant differences in sentence disposition between Blacks and other racial or ethnic groups.

Sentencing Disposition in FY03

All Offenses

| Race/ Hispanic | Sentences | Percent Disposition | | | | Average Prison Sentence (yrs) |
|-------------------|-----------|---------------------|---------------------|--------|---------------------------|--|
| | | Probation | Shock/ Treatment | Prison | Percent of Sentence | |
| Black | 7,564 | 63.5 | 11.4 | 25.2 | 100.0 | 7.8 |
| Hispanic | 440 | 59.1 | 10.7 | 30.2 | 100.0 | 6.6 |
| White | 16,688 | 63.5 | 12.7 | 23.7 | 100.0 | 6.1 |
| Other | 136 | 65.4 | 8.8 | 25.7 | 100.0 | 6.7 |
| Total | 24,828 | 63.4 | 12.3 | 24.3 | 100.0 | 6.7 |

The disparity in average prison sentence between Blacks and other races is, in general, reduced when the comparison is made between similar offense groups. The exception is for violent offenses. For Class B, C and D violent felony offenses, Blacks have a higher average prison sentence and a higher percent of prison dispositions than other groups.

Drug Offenses

| Race/ Hispanic | Sentences | Percent Disposition | | | | Average Prison Sentence (yrs) |
|-------------------|-----------|---------------------|---------------------|--------|---------------------------|--|
| | | Probation | Shock/ Treatment | Prison | Percent of Sentence | |
| Black | 3,113 | 67.8 | 14.7 | 17.4 | 100.0 | 6.4 |
| Hispanic | 146 | 65.1 | 12.3 | 22.6 | 100.0 | 6.5 |
| White | 5,375 | 67.0 | 14.2 | 18.9 | 100.0 | 5.7 |
| Other Races | 36 | 86.1 | 8.3 | 5.6 | 100.0 | 5.0 |
| Total | 8,670 | 67.3 | 14.3 | 18.4 | 100.0 | 5.9 |

DWI Offenses

| Race/ Hispanic | Sentences | Percent Disposition | | | | Average Prison Sentence (yrs) |
|-------------------|-----------|---------------------|---------------------|--------|---------------------------|--|
| | | Probation | Shock/ Treatment | Prison | Percent of Sentence | |
| Black | 231 | 57.1 | 23.4 | 19.5 | 100.0 | 3.4 |
| Hispanic | 42 | 64.3 | 7.1 | 28.6 | 100.0 | 3.1 |
| White | 1,794 | 52.5 | 23.1 | 24.4 | 100.0 | 3.7 |
| Other Races | 13 | 38.5 | 23.1 | 38.5 | 100.0 | 3.2 |
| Total | 2,080 | 53.1 | 22.8 | 24.0 | 100.0 | 3.6 |

Non Violent Offenses Other than Drugs and DWI

| Race/ Hispanic | Sentences | Percent Disposition | | | | Average Prison Sentence (yrs) |
|-------------------|-----------|---------------------|---------------------|--------|---------------------------|--|
| | | Probation | Shock/ Treatment | Prison | Percent of Sentence | |
| Black | 2,994 | 71.9 | 7.5 | 20.6 | 100.0 | 4.9 |
| Hispanic | 152 | 65.1 | 8.6 | 26.3 | 100.0 | 3.6 |
| White | 7,396 | 69.7 | 8.8 | 21.4 | 100.0 | 4.5 |
| Other Races | 59 | 64.4 | 6.8 | 28.8 | 100.0 | 3.7 |
| Total | 10,601 | 70.3 | 8.4 | 21.3 | 100.0 | 4.6 |

Violent Offenses

| Felony Class | Race/Hispanic | Sentences | Percent Disposition | | | | Average Prison Sentence (yrs) |
|--------------|---------------|-----------|---------------------|-----------------|--------|---------------------|-------------------------------|
| | | | Probation | Shock/Treatment | Prison | Percent of Sentence | |
| A | Black | 362 | 10.2 | 3.9 | 85.9 | 100.0 | 17.3 |
| | Hispanic | 24 | 12.5 | 16.7 | 70.8 | 100.0 | 18.8 |
| | White | 374 | 11.5 | 5.1 | 83.4 | 100.0 | 17.8 |
| | Other Races | 5 | 20.0 | - | 80.0 | 100.0 | 22.5 |
| | Total | 765 | 11.0 | 4.8 | 84.2 | 100.0 | 17.6 |
| B | Black | 321 | 22.7 | 15.0 | 62.3 | 100.0 | 8.9 |
| | Hispanic | 14 | 28.6 | 7.1 | 64.3 | 100.0 | 7.2 |
| | White | 325 | 27.7 | 16.9 | 55.4 | 100.0 | 9.0 |
| | Other Races | 5 | 20.0 | - | 80.0 | 100.0 | 10.8 |
| | Total | 665 | 25.3 | 15.6 | 59.1 | 100.0 | 8.9 |
| C | Black | 466 | 51.8 | 12.0 | 36.2 | 100.0 | 5.6 |
| | Hispanic | 52 | 50.0 | 13.5 | 36.5 | 100.0 | 4.2 |
| | White | 1,152 | 50.4 | 16.7 | 33.0 | 100.0 | 5.5 |
| | Other Races | 12 | 66.7 | 16.7 | 16.7 | 100.0 | 3.5 |
| | Total | 1,682 | 50.9 | 15.3 | 33.8 | 100.0 | 5.4 |
| D | Black | 66 | 71.2 | 9.1 | 19.7 | 100.0 | 3.8 |
| | Hispanic | 7 | 71.4 | 14.3 | 14.3 | 100.0 | 3.0 |
| | White | 238 | 71.0 | 11.8 | 17.2 | 100.0 | 3.9 |
| | Other Races | 5 | 80.0 | - | 20.0 | 100.0 | 5.0 |
| | Total | 316 | 71.2 | 11.1 | 17.7 | 100.0 | 3.9 |

The sentencing analysis undertaken for the recommended sentences report indicated that the severity of sentencing is influenced by the level of prior criminal history. A necessary analysis, therefore, when measuring racial disparity is to measure any differences in prior criminal history between racial/ethnic groups. Blacks have the lowest percentage of offenders with a level I prior criminal history (68.5%). The average for Whites was 72.8%.

The next step is to measure the sentencing indicators for different levels of prior criminal history between the racial/ethnic groups. For the prison percent of sentences there is little difference between the racial/ethnic groups, but there is a difference in the average length of prison sentence. Blacks have a longer prison sentence than other racial/ethnic groups for all levels of prior criminal history.

The final step in the analysis is to identify whether the differences in prison sentences is attributed to differences in the type offense. For offenders with level I prior criminal history, Blacks convicted of violent offenses have a higher percent receiving a prison sentence (48.8%), compared to 36.7% for Whites and the average sentence is 11.2 years, compared to 10.4 years for Whites. For the other offense groups (Drugs, DWI and other non-violent offenses), there are few differences between the racial/ethnic groups.

Prior Criminal History and Racial/ Ethnic Origin, FY03 Sentencing

Dispositions

| Race/Hispanic | Prior Criminal History | | | | |
|---------------|------------------------|----------|-----------|----------|--------|
| | Level I | Level II | Level III | Level IV | Total |
| Black | 5,178 | 1,541 | 314 | 531 | 7,564 |
| Hispanic | 360 | 58 | 7 | 15 | 440 |
| White | 12,151 | 3,153 | 542 | 842 | 16,688 |
| Other | 105 | 21 | 6 | 4 | 136 |
| Total | 17,794 | 4,773 | 869 | 1,392 | 24,828 |

Percentages

| Race/Hispanic | Prior Criminal History | | | | |
|---------------|------------------------|----------|-----------|----------|--------|
| | Level I | Level II | Level III | Level IV | Total |
| Black | 68.5% | 20.4% | 4.2% | 7.0% | 100.0% |
| Hispanic | 81.8% | 13.2% | 1.6% | 3.4% | 100.0% |
| White | 72.8% | 18.9% | 3.2% | 5.0% | 100.0% |
| Other | 77.2% | 15.4% | 4.4% | 2.9% | 100.0% |
| Total | 71.7% | 19.2% | 3.5% | 5.6% | 100.0% |

Average Prison Sentences (Years), FY03

| Race/Hispanic | Prior Criminal History | | | | |
|---------------|------------------------|----------|-----------|----------|-------|
| | Level I | Level II | Level III | Level IV | Total |
| Black | 8.0 | 7.5 | 7.4 | 8.6 | 7.9 |
| Hispanic | 6.8 | 5.3 | 9.8 | 5.8 | 6.6 |
| White | 6.6 | 5.4 | 5.9 | 6.1 | 6.3 |
| Other | 7.6 | 3.8 | 5.3 | 10.0 | 7.0 |
| Total | 7.0 | 6.1 | 6.5 | 7.0 | 6.8 |

Prison Sentences as a Percent of All Dispositions, FY03

| Race/Hispanic | Prior Criminal History | | | | |
|---------------|------------------------|----------|-----------|----------|-------|
| | Level I | Level II | Level III | Level IV | Total |
| Black | 15.8 | 40.9 | 54.1 | 53.1 | 25.1 |
| Hispanic | 28.1 | 32.8 | 71.4 | 53.3 | 30.2 |
| White | 15.2 | 42.1 | 54.6 | 57.5 | 23.7 |
| Other | 19.1 | 38.1 | 66.7 | 75.0 | 25.7 |
| Total | 15.7 | 41.6 | 54.7 | 55.8 | 24.3 |

Violent offenses in the analysis are the NCIC offenses of Homicide, Sex Assault, Robbery and Assault and the Missouri offense of Arson 1st.

**Prison as a Percent of All Sentences and Average Prison Sentence
Offenders with No or Little Prior Criminal History (Level I)**

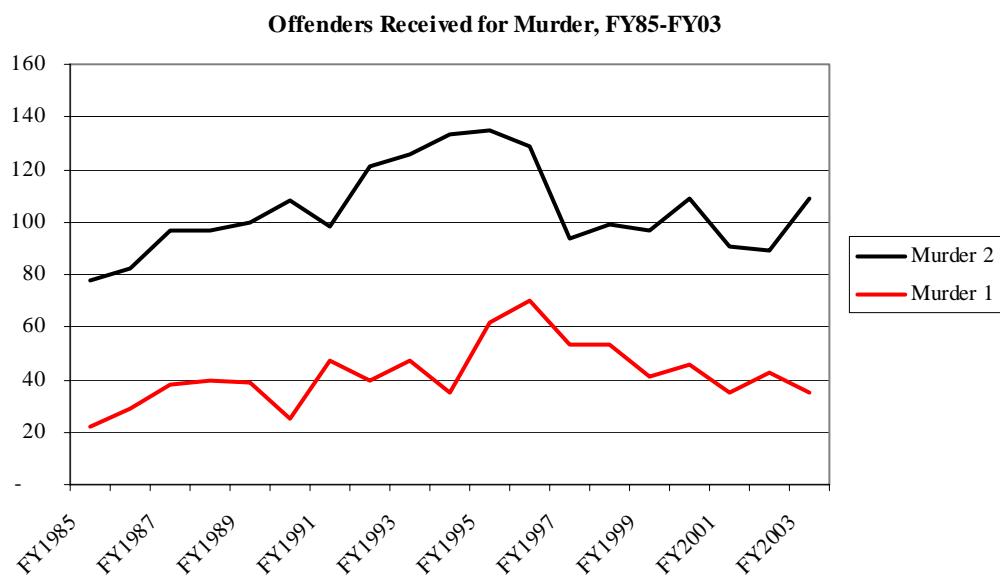
| Race/Hispanic | Level I Sentences | Percent Prison Sentences | Average Prison Sentence (yrs.) |
|--------------------------------|----------------------|--------------------------------|---|
| <i>Violent</i> | | | |
| Black | 811 | 48.8 | 11.2 |
| Hispanic | 84 | 46.4 | 10.0 |
| White | 1,615 | 36.7 | 10.4 |
| Other | 21 | 33.3 | 14.9 |
| Total Violent | 2,531 | 40.9 | 10.7 |
| <i>Drugs</i> | | | |
| Black | 2,134 | 9.0 | 5.9 |
| Hispanic | 123 | 20.3 | 6.6 |
| White | 4,067 | 11.4 | 5.7 |
| Other | 31 | - | - |
| Total Drugs | 6,355 | 10.7 | 5.8 |
| <i>DWI</i> | | | |
| Black | 132 | 12.1 | 3.3 |
| Hispanic | 31 | 38.7 | 3.1 |
| White | 1,100 | 13.4 | 3.4 |
| Other | 8 | 37.5 | 3.7 |
| Total DWI | 1,271 | 14.0 | 3.4 |
| <i>Other Non-Violent</i> | | | |
| Black | 2,101 | 10.2 | 4.2 |
| Hispanic | 122 | 20.5 | 3.7 |
| White | 5,369 | 12.1 | 4.4 |
| Other | 45 | 22.2 | 3.7 |
| Total Other Non-Violent | 7,637 | 11.8 | 4.4 |
| Total Sentence | 17,794 | 15.7 | 7.0 |

DEATH PENALTY SENTENCING

The study describes recent trends in prison admissions for murder, including sentences that require the death penalty, and provides some measures that should identify any racial disparity in the application of capital punishment. The full data tables are included in the appendix F.

Admissions for Murder 1 and Murder 2

The number of offenders received for Murder I has been declining since FY96. In that year, there were 70 admissions, while in FY03 there were 30. Convictions for Murder 2, however, have remained steady at around 100 per year.



Murder Commitment Rates

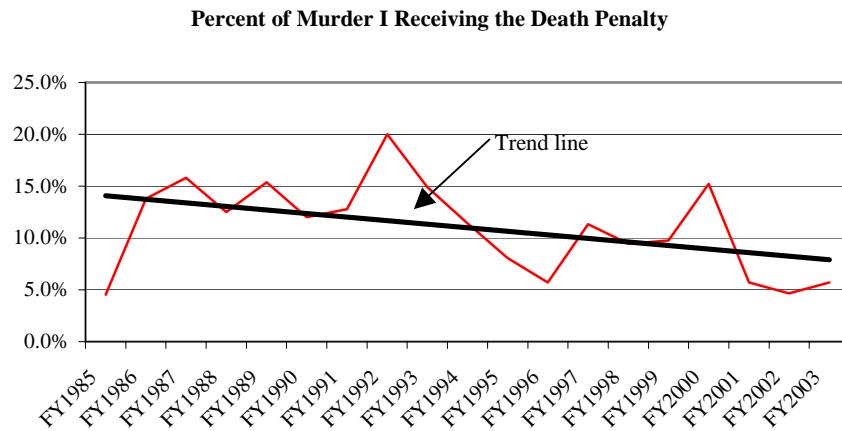
Murder admissions expressed as a rate per 100,000 of the Missouri population have shown a modest drop since 1990. Admissions, calculated as an average of three years to minimize random fluctuations, have fallen from 3.44 in FY 1989-91 to 3.03 in FY2001-2003.

Murder Commitment Rates (per 100,000 pop.) New admissions for murder

| | 1989-1991 | 2001-2003 |
|----------|-----------|-----------|
| Murder 1 | 0.72 | 0.66 |
| Murder 2 | 2.72 | 2.36 |
| Total | 3.44 | 3.03 |

The application of the death penalty

The number of offenders sentenced to death has been low in recent years. In FY2001 through to FY2003, there were two per year and in FY2004 there have been none to date. A trend line from FY85 suggests that the application of the death penalty is diminishing.



Is there a racial disparity in the application of the death penalty?

Racial disparity might exist if one racial group is shown to be more likely to receive the death penalty than other racial groups. Because African-Americans have a higher commitment rate for Murder than other racial groups the comparison has been made between African Americans and Caucasians/Native Americans/Asians.

| Murder Commitment Rates by Race 2001-2003 | |
|---|-------|
| Rates per 100,000 population | |
| African American | 11.01 |
| White/Native American/Asian | 1.02 |

Two indicators have been calculated:

- The percent of offenders convicted of Murder I that receive the death penalty
- The percent of offenders who are convicted of Murder that are convicted of Murder I.

The results indicate that there is a racial disparity in both the indicators, **but it is the other group (Whites, Native Americans, Asians) that has the highest rates.**

For the period FY85-FY03, 6.7% of African Americans convicted of Murder I received the death penalty while 12.6% of other races received the death penalty.

Offenders Received for Murder I, By Race , FY85:FY04

| | African Americans | | | | Other Races | | | |
|-------|-------------------|------|-------|-----------------|---------------|------|-------|-----------------|
| | Death Penalty | Life | Total | Percent Capital | Death Penalty | Life | Total | Percent Capital |
| Total | 29 | 407 | 436 | 6.7% | 58 | 404 | 462 | 12.6% |

For the period FY85-FY03, 25.7% of African Americans convicted of Murder were convicted of Murder 1, while 32.4% of other races were convicted of Murder 1.

Offenders Received with Murder By Race (FY1985:FY2004)

| | African Americans | | | | Other Races | | | |
|-------|-------------------|-----------|-------|------------------|-------------|-----------|-------|------------------|
| | Murder I | Murder II | Total | Percent Murder I | Murder I | Murder II | Total | Percent Murder I |
| Total | 407 | 1,175 | 1,582 | 25.7% | 404 | 842 | 1,246 | 32.4% |

Is there a geographical disparity in death penalty cases?

Sentencing is considered by many to be more severe in rural areas than in the urban and metropolitan areas.

During the period FY85-FY04, St. Louis City and Jackson County have much lower percentages of death penalty sentencing compared to the rest of the state. Additionally, St. Louis City has a very low percent of African-Americans with a death penalty sentence (4%). Based upon the figures in the table below, the lower rate of death penalty cases among African-Americans compared to the other races statewide might be attributed to the sentencing practices in St. Louis City. St. Louis City is the only county in the table below that has a significant difference in death penalty rates between races.

Offenders Received for Murder I, By Race

| | African Americans | | | | Other Races | | | |
|------------------|-------------------|------|-------|-----------------|---------------|------|-------|-----------------|
| | Death Penalty | Life | Total | Percent Capital | Death Penalty | Life | Total | Percent Capital |
| St. Louis City | 8 | 198 | 206 | 4% | 4 | 34 | 38 | 11% |
| Jackson County | 6 | 82 | 88 | 7% | 2 | 41 | 43 | 5% |
| St. Louis County | 8 | 58 | 66 | 12% | 4 | 33 | 37 | 11% |
| Greene | - | - | - | 0% | 3 | 10 | 13 | 23% |
| Other Counties | 7 | 40 | 47 | 15% | 45 | 118 | 273 | 16% |
| Total | 29 | 378 | 407 | 7% | 58 | 236 | 404 | 14% |

There is also no significant geographical difference between races in the percent of offenders convicted of murder who are convicted of Murder 1st. Statewide, African Americans are less likely to be convicted of Murder 1st than other races and that is also true in each of the four selected urban counties.

Offenders Received for Murder I and Murder 2, By Race

| | African Americans | | | | Other Races | | | |
|------------------|-------------------|-----------|-------|------------------|-------------|-----------|-------|------------------|
| | Murder I | Murder II | Total | Percent Murder I | Murder I | Murder II | Total | Percent Murder I |
| St. Louis City | 206 | 486 | 692 | 29.8% | 38 | 77 | 115 | 33.0% |
| Jackson County | 88 | 407 | 495 | 17.8% | 43 | 126 | 169 | 25.4% |
| St. Louis County | 66 | 157 | 223 | 29.6% | 37 | 63 | 100 | 37.0% |
| Greene | | 5 | 5 | 0.0% | 13 | 36 | 49 | 26.5% |
| Other Counties | 47 | 120 | 167 | 28.1% | 273 | 540 | 813 | 33.6% |
| Total | 407 | 1,175 | 1,582 | 25.7% | 404 | 842 | 1,246 | 32.4% |

Conclusions

Examining the sentencing data from the Missouri Department of Corrections for admissions for murder from FY85-FY04 (to November 2003) the rate of murder convictions has fallen and the number of death penalty cases is now lower than it has been at any time since FY1985. Although African-Americans have a much higher commitment rate for murder, from the analysis undertaken, the evidence suggests that African-Americans are less likely to be sentenced either to the death penalty or to Murder 1. A geographical analysis indicates that St. Louis City has a significantly different ratio of death penalty to life sentencing between African-Americans and other races.

Because the statistical analysis did not include any severity of offense, prior criminal history or demographic factors, the conclusions should be considered as subject to more detailed investigations.

Appendix A

Authorizing Statute: 558.019 RSMo.

6. (1) A sentencing advisory commission is hereby created to consist of eleven members. One member shall be appointed by the speaker of the house. One member shall be appointed by the president pro tem of the senate. One member shall be the director of the department of corrections. Six members shall be appointed by and serve at the pleasure of the governor from among the following: the public defender commission; private citizens; a private member of the Missouri Bar; the board of probation and parole; and a prosecutor. Two members shall be appointed by the supreme court, one from a metropolitan area and one from a rural area. All members shall be appointed to a four-year term. All members of the sentencing commission appointed prior to August 28, 1994, shall continue to serve on the sentencing advisory commission at the pleasure of the governor.

(2) The commission shall study sentencing practices in the circuit courts throughout the state for the purpose of determining whether and to what extent disparities exist among the various circuit courts with respect to the length of sentences imposed and the use of probation for offenders convicted of the same or similar crimes and with similar criminal histories. The commission shall also study and examine whether and to what extent sentencing disparity among economic and social classes exists in relation to the sentence of death and if so, the reasons therefor sentences are comparable to other states, if the length of the sentence is appropriate, and the rate of rehabilitation based on sentence. It shall compile statistics, examine cases, draw conclusions, and perform other duties relevant to the research and investigation of disparities in death penalty sentencing among economic and social classes.

(3) The commission shall establish a system of recommended sentences, within the statutory minimum and maximum sentences provided by law for each felony committed under the laws of this state. This system of recommended sentences shall be distributed to all sentencing courts within the state of Missouri. The recommended sentence for each crime shall take into account, but not be limited to, the following factors:

- (a) The nature and severity of each offense;
- (b) The record of prior offenses by the offender;
- (c) The data gathered by the commission showing the duration and nature of sentences imposed for each crime; and
- (d) The resources of the department of corrections and other authorities to carry out the punishments that are imposed.

(4) The commission shall study alternative sentences, prison work programs, work release, home-based incarceration, probation and parole options, and any other programs and report the feasibility of these options in Missouri.

(5) The commission shall publish and distribute its recommendations on or before July 1, 2004. The commission shall study the implementation and use of the recommendations until July 1, 2005, and return a report to the governor, the Speaker of the House of Representatives, and the President Pro Tem of the Senate. Following the July 1, 2005, report, the commission shall revise the recommended sentences every two years.

(6) The governor shall select a chairperson who shall call meetings of the commission as required or permitted pursuant to the purpose of the sentencing commission.

(7) The members of the commission shall not receive compensation for their duties on the commission, but shall be reimbursed for actual and necessary expenses incurred in the performance of these duties and for which they are not reimbursed by reason of their other paid positions.

(8) The circuit and associate circuit courts of this state, the office of the state courts administrator, the department of public safety, and the department of corrections shall cooperate with the commission by providing information or access to information needed by the commission. The office of the state courts administrator will provide needed staffing resources.

7. Courts shall retain discretion to lower or exceed the sentence recommended by the commission as otherwise allowable by law, and to order restorative justice methods, when applicable.
8. If the imposition or execution of a sentence is suspended, the court may order any or all of the following restorative justice methods, or any other method that the court finds just or appropriate:
 - (1) Restitution to any victim for costs incurred as a result of the offender's actions;
 - (2) Offender treatment programs;
 - (3) Mandatory community service;
 - (4) Work release programs in local facilities; and
 - (5) Community-based residential and nonresidential programs.
9. The provisions of this section shall apply only to offenses occurring on or after August 28, 2003.

(L. 1986 H.B. 1098 § 1, A.L. 1988 H.B. 1340 & 1348, A.L. 1989 S.B. 215 & 58, A.L. 1990 H.B. 974, A.L. 1993 H.B. 562, A.L. 1994 S.B. 763, A.L. 1998 H.B. 1508 merged with S.B. 766, A.L. 2003 S.B. 5)

Effective 6-27-03

Appendix B

Prior Criminal History Level and Offender Risk Factors

Prior criminal history

Select the lowest level that meets all the conditions

| | | | |
|------------------|--|-----------------|--|
| Level I | No prior unrelated felony finding of guilt and no more than 3 misdemeanor/jail sentences of 30 days or more. | Level II | No prior prison incarceration and no more than two unrelated felony findings of guilt. |
| Level III | No more than one prior prison incarceration and no more than three unrelated felony findings of guilt. | Level IV | No more than two prior prison incarcerations and no more than four unrelated felony findings of guilt. |
| Level V | More than two prior prison incarcerations or more than four unrelated felony findings of guilt | | |

Scoring of the Offender Risk Factors

Offense-Related Factors

1. Prior unrelated findings of guilt misdemeanor/jail sentences of 30+ days

| | |
|---------------|----|
| Three or less | 0 |
| Four or more | -1 |
2. Prior unrelated felony findings of guilt

| | |
|-------------|----|
| None | 1 |
| One | 0 |
| Two or more | -1 |
3. Prior prison incarcerations

| | |
|-------------|----|
| None | 0 |
| One or more | -1 |
4. Five years without a finding of guilt or incarceration

| | |
|-----|---|
| Yes | 1 |
| No | 0 |
5. Revocations of probation or parole

| | |
|-----|----|
| No | 0 |
| Yes | -1 |
6. Recidivist related present offense

| | |
|-----|----|
| No | 0 |
| Yes | -1 |

Other Risk-Related Factors

7. Age

| | |
|--------------|----|
| 45 and over | 2 |
| 35-44 | 1 |
| 22-34 | 0 |
| 21 and under | -1 |
8. Prior escape

| | |
|-----|----|
| No | 0 |
| Yes | -1 |
9. Substance abuse (DOC substance abuse test and verified drug history)

| | |
|----|---|
| No | 1 |
|----|---|

| | |
|---|----|
| Yes | 0 |
| 10. Education | |
| GED or educational attainment 12 grade or better | 1 |
| Below 12th grade | 0 |
| 11. Employment | |
| Full time for 3 months or more | 1 |
| Part time or full time for less than three months | 0 |
| Unemployed | -1 |

The scoring of the risk factors are subject to review. The Department of Corrections is conducting a research study based upon fiscal year 2001 prison releases and probation openings to validate the risk instrument. The results are expected by July 2005.

The Offender Risk Score

The range of possible scores for the offender risk scale ranges from 7 to -8 and the scaling is shown in the table below.

| | |
|----------------------|----|
| Best possible score | 7 |
| Worst possible score | -8 |
| Range | 15 |

| Risk Class | Score |
|---------------|----------|
| Good | 4 to 7 |
| Above Average | 2 to 3 |
| Average | 0 to 1 |
| Below Average | -1 to -2 |
| Poor | -3 to -8 |

Definitions of the Risk Factors

1. Prior Unrelated Misdemeanor Findings and Jail Sentences

SIS and SES misdemeanor probations and jail sentences (including ordinance violations) of 30 days or more identified at the time the report is completed. Concurrent or consecutive sentences adjudicated by the same court on the same day count as related findings of guilt.

2. Prior Unrelated Felony Findings of Guilt

All felony SIS and SES felony probations and sentences of at least 30 days. Concurrent or consecutive sentences adjudicated by the same court on the same day count as related findings of guilt.

3. Prior Prison Incarcerations

Any commitment to a state or federal prison. Incarceration to a 120-day program pursuant to 559.115 RSMo, the Post Conviction Drug Treatment program, 217.785 RSMo, or the long-term drug program 217.632 RSMo will count as an incarceration even if the offender successfully completed the program, was released to probation supervision and completed the term. Mental health commitments are not considered as incarcerations. Imposed military sanctions do not count.

4. Five Years without a Finding of Guilt

The time from release from prison or from a jail sentence of 30 days or more or from the start of the last term of probation supervision until the time the report is completed.

5. Revocation of Probation and Parole

Revocation of state or federal adult probations, paroles, conditional releases and revocations resulting in a jail sentence of 30 days or more.

6. Recidivist-Related Present Offense

The present offense OR an unexpired sentence the offender is still serving at the time the SAR is completed (i.e. an SIS or SES probation, parole or prison term), related to the following offenses: Burglary 1st/2nd, Robbery 1st/2nd Pharmacy Robbery, Stealing a Motor Vehicle or tampering with a motor vehicle. This includes attempts, conspiracy or accessory charges.

7. Age

The age of the offender at the time the report is prepared.

8. Escape

A Missouri or out-of-state finding of guilt for escape or attempted escape from any jail or prison facility, or an institutional conduct violation for escape from a mainline prison or a status code exit for escape..

9. Substance Abuse

The existence of a substance abuse problem is determined through review and consideration of all available collateral information (DOC Substance Abuse Classification Assessment (SACA), criminal history, treatment history, file material or other evidence of substance abusing behavior).

The SACA is done at the time of the Sentencing Assessment Report if one has not been completed within the last twelve months. If more than one SACA exists for an offender, the last assessment will be used to score the variable. A new sentence for drug or alcohol related activity subsequent to the last SACA will indicate a substance abuse problem. Substance abuse is scoring 3 to 5 on the SACA.

10. Education

A verified high school diploma or GED or enrollment in high school or GED class at the time the report is prepared.

11. Employment

The employment status at the time of arrest unless the offender gains employment prior to sentencing. Full time employment is 35 hours or more per week. Homemakers, retirees, seasonal employees and disabled persons as classified as part time.

Appendix C

The Offense Grouping to Measure Offense Severity

Violent A and B felonies (excluding sex assault)

Murder 1 and 2, Manslaughter, Robbery 1, Robbery 2, Assault 1, Assault on Law Enforcement Officer/Emergency Personal, Domestic Assault 1, NCIC Kidnapping, Arson 1, Arson 2 (causing death), Armed Criminal Action and other A or B weapon offenses (including 31010, 31140, 31150, 31151, 31152, 31153, 31154, 31180, 31182, 31195, 31200), Treason, Elder Abuse 1 and 2 (36322, 36324, 26165, 26170), Escape using violence or weapons (28020, 28050, 28100, 28130), Causing a catastrophe (34070), Bus jacking (12050, 13060, 13070)

Violent C and D felonies:

Manslaughter, Assault 2, Domestic Assault 2, Assault 3 with deadly weapon, Arson 2 (w/o causing death), NCIC offenses of Kidnapping (felonious restraint), Flight/Escape with use of weapons or force in escape (28055, 28060), Civil disorder (34045), Riot (34047), and Harassment because of discrimination (34055), Terrorist threats (34072, 34074, 34078, 58010, 58020, 58040), Ethnic intimidation (34110, 341120) and Aggravated stalking 1 and 2 (34210, 34220)

Drugs A and B felonies:

Drug trafficking 1 and 2, Drug manufacturing or distribution and any other A or B felony NCIC Dangerous Drug Offense,

Non-Violent A and B felonies:

Includes the offenses of Burglary 1, Theft Of Anhydrous Ammonia, Identify Theft

Drugs C and D felonies:

NCIC Dangerous Drugs

Non-Violent C and D felonies:

NCIC offenses of Burglary (not 1), Stealing, Arson (not 1 or 2 causing death), Forgery, Fraud, Gambling, Damage Property, Stolen Property, Obscenity, Family Offenses (excluding those listed in Violent C and D felonies), Obstructing Judicial Process, Weapon Offenses, Liquor Laws, Peace Disturbance, Election Laws, Health and Safety, Tax Revenue, Conservation, Motor Vehicles (other than DWI and BAC), Public Order Crimes, (with the listed exceptions in Violent C and D felonies).

Sex and Child Abuse A & B felonies

Forcible rape, Forcible sodomy, Statutory rape, Statutory sodomy, Sexual assault, Child molestation 1, Abandonment of child 1 and Sexual exploitation.

Sex and Child Abuse C & D felonies

Child molestation 2, Sexual misconduct, Incest, Abandonment of child 2, Abuse of a child, Endangering the welfare of a child and Child enticement, Child in sexual performance, Trafficking in children

DWI

Vehicles: 47410-47470, watercraft 54307-54310. Includes BAC.

Appendix D

The Expected Impact of the Recommended Sentences

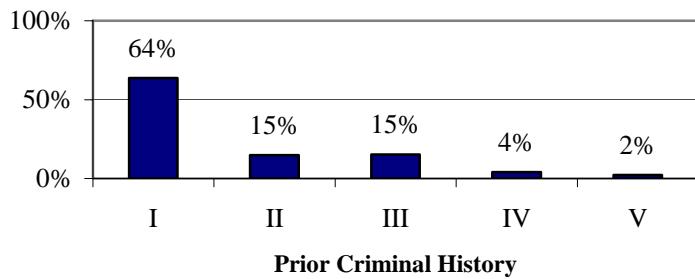
The Distribution of the New Prior Criminal History Level

The expected distribution of the criminal behavior indicator is based upon the pre-sentence investigations and sentencing assessment reports completed by the Department of Corrections from January 2005 to March 2005.

From the Pre-Sentence Investigations and Sentencing Assessment Reports:

- 64% were Level I (*no prior felony unrelated findings of guilt and no more than 3 misdemeanor/jail incarcerations of 30 days or more*).
- 15% were Level II (*no more than two felony unrelated findings of guilt and no prison incarceration*).
- 15% were Level III (*no more than one prior incarceration and no more than three felony unrelated findings of guilt*).
- 4% were Level IV (*no more than two incarcerations and no more than four felony unrelated findings of guilt*)
- 2% were Level V (*more than two incarcerations or more than four felony unrelated findings of guilt*)

Pre-Sentence Investigations Jan-Mar 2005



The estimate of the impact of applying the recommended sentences was upon applying the recommended sentences to new court sentencing received by the Department of Corrections in 2004. The analysis included over 19,000 sentences.

What were the recommended sentences for the new court sentences?

Forty six percent were recommended straight probation and a further 28% were recommended a community structured sentence. Fourteen percent were recommended a shock or treatment sentence and 12% were recommended prison.

**Recommended Sentences for
New Commitments/Probations Received By DOC, 2004**

| | # | Percent | |
|-------------------------------|--------|---------|--|
| Probation | 8,805 | 46% | |
| Community Structured Sentence | 5,360 | 28% | |
| Shock/treatment programs | 2,709 | 14% | |
| Prison | 2,230 | 12% | |
| Total | 19,104 | 100% | |

Does the Recommended Sentence agree with the actual sentence for the New Court Sentences in 2004?

Because the community structured sentence is not a sentencing disposition, the recommended sentences were aggregated into two groups:

- Probation and community structured supervision
- Institutional shock and treatment programs and prison terms.
- For all new sentences received by the DOC in 2004:
 - 74% were recommended for probation supervision
 - 74% received a probation sentence.

Recommended and Actual Sentence: All New Sentences, 2005

| Disposition | Recomm- ended | Actual | Percent | |
|------------------------|------------------|--------|---------|--------|
| | | | Rec. | Actual |
| Probation/CSS | 14,165 | 14,183 | 74% | 74% |
| Prison/Shock Treatment | 4,939 | 4,921 | 26% | 26% |
| Total | 19,104 | 19,104 | 100% | 100% |

The Impact of Recommending Institutional Shock or Treatment

A specific recommendation to sentence under the 120-day legislation (559.115) or to the long-term drug program (217.362) was an important change in the 2004 System of Recommended Sentences. If the courts accept these shock or treatment recommended sentences then there will be a significant impact on sentencing in Missouri.

Based upon the analysis of new sentences received by the Department of Corrections in 2004, there would have been 2,711 recommended sentences for shock/treatment compared to an actual number of 1,614 offenders sentenced to shock or treatment. As a result of the greater rate of referral to shock or treatment programs there would have been 1,097 fewer offenders sentenced to prison.

| | Offenders | Percent |
|---|-----------|---------|
| Recommended 120 day shock/treatment/long term drug | 2,711 | 55% |
| Recommended Prison | 2,230 | 45% |
| Actual Sentencing to 120 day shock/treatment/long term drug | 1614 | 33% |
| Actual Sentencing to Prison | 3307 | 67% |

Of the offenders recommended for a shock or treatment sentence, 78% will have a drug, DWI or non-violent offense and 68% will have a felony class of C or D.

Recommended Sentences for Shock/Treatment

| Offense Group | Percent of Prison or Shk/Trt | Percent of Shk/Trt |
|---------------------|---------------------------------------|--------------------------|
| Drugs | 61% | 35% |
| DWI | 69% | 15% |
| Non violent | 57% | 29% |
| Sex and Child Abuse | 33% | 9% |
| Violent | 33% | 13% |
| Total | 55% | 100% |

Recommended Sentences for Shock/Treatment

| Felony Class | Percent |
|--------------|---------|
| Class A | 7% |
| Class B | 24% |
| Class C | 38% |
| Class D | 31% |
| Total | 100% |

Appendix E

The Board of Probation and Parole Guideline Matrices showing the guideline prison time in months

Notes:

A separate Drug Offenses Guideline Matrix has been developed by the Board of Probation and Parole and the Board plans to be introduce the new matrix before the SAR is introduced statewide. Drug offenses are currently included in non-violent offenses.

Min. is the minimum of the guideline range and Max. is the maximum of the guideline range. For offenders with a Poor risk (the highest risk) the maximum of the range is the conditional release date. For sentences under 10 years, the conditional release date is two-thirds of the sentence. For sentences from 10 to 15 years, the conditional release date is three years before sentence completion and for sentences over 15 years, the conditional release date is five years before sentence completion.

The Board of Probation and Parole's **Excellent** risk category is equivalent to the Sentencing Commission's **Good** risk category.

Violent Offenses

C and D Felonies

| Sentence (yrs) | Excellent | | | Above Average | | | Average | | | Below Average | | | Poor | | |
|-------------------|-----------|-------|------|---------------|-------|------|---------|-------|------|---------------|-------|------|------|-------|------|
| | Min. | Guide | Max. | Min. | Guide | Max. | Min. | Guide | Max. | Min. | Guide | Max. | Min. | Guide | Max. |
| | 33% | 35% | 40% | 35% | 40% | 45% | 40% | 45% | 50% | 45% | 50% | 55% | 50% | 55% | C.R. |
| 2 | 8 | 8 | 10 | 8 | 10 | 11 | 10 | 11 | 12 | 11 | 12 | 13 | 12 | 13 | 16 |
| 3 | 12 | 13 | 14 | 13 | 14 | 16 | 14 | 16 | 18 | 16 | 18 | 20 | 18 | 20 | 24 |
| 4 | 16 | 17 | 19 | 17 | 19 | 22 | 19 | 22 | 24 | 22 | 24 | 26 | 24 | 26 | 32 |
| 5 | 20 | 21 | 24 | 21 | 24 | 27 | 24 | 27 | 30 | 27 | 30 | 33 | 30 | 33 | 40 |
| 6 | 24 | 25 | 29 | 25 | 29 | 32 | 29 | 32 | 36 | 32 | 36 | 40 | 36 | 40 | 48 |
| 7 | 28 | 29 | 34 | 29 | 34 | 38 | 34 | 38 | 42 | 38 | 42 | 46 | 42 | 46 | 56 |

A and B Felonies

| Sentence (yrs) | Excellent | | | Above Average | | | Average | | | Below Average | | | Poor | | |
|-------------------|-----------|-------|------|---------------|-------|------|---------|-------|------|---------------|-------|------|------|-------|------|
| | Min. | Guide | Max. | Min. | Guide | Max. | Min. | Guide | Max. | Min. | Guide | Max. | Min. | Guide | Max. |
| | 33% | 40% | 45% | 40% | 45% | 50% | 45% | 50% | 55% | 50% | 55% | 60% | 55% | 60% | C.R. |
| 5 | 20 | 24 | 27 | 24 | 27 | 30 | 27 | 30 | 33 | 30 | 33 | 36 | 33 | 36 | 40 |
| 6 | 24 | 29 | 32 | 29 | 32 | 36 | 32 | 36 | 40 | 36 | 40 | 43 | 40 | 43 | 48 |
| 7 | 28 | 34 | 38 | 34 | 38 | 42 | 38 | 42 | 46 | 42 | 46 | 50 | 46 | 50 | 56 |
| 8 | 32 | 38 | 43 | 38 | 43 | 48 | 43 | 48 | 53 | 48 | 53 | 58 | 53 | 58 | 64 |
| 9 | 36 | 43 | 49 | 43 | 49 | 54 | 49 | 54 | 59 | 54 | 59 | 65 | 59 | 65 | 72 |
| 10 | 40 | 48 | 54 | 48 | 54 | 60 | 54 | 60 | 66 | 60 | 66 | 72 | 66 | 72 | 84 |
| 11 | 44 | 53 | 59 | 53 | 59 | 66 | 59 | 66 | 73 | 66 | 73 | 79 | 73 | 79 | 96 |
| 12 | 48 | 58 | 65 | 58 | 65 | 72 | 65 | 72 | 79 | 72 | 79 | 86 | 79 | 86 | 108 |
| 13 | 52 | 62 | 70 | 62 | 70 | 78 | 70 | 78 | 86 | 78 | 86 | 94 | 86 | 94 | 120 |
| 14 | 56 | 67 | 76 | 67 | 76 | 84 | 76 | 84 | 92 | 84 | 92 | 101 | 92 | 101 | 132 |
| 15 | 60 | 72 | 81 | 72 | 81 | 90 | 81 | 90 | 99 | 90 | 99 | 108 | 99 | 108 | 144 |
| 16 | 64 | 77 | 86 | 77 | 86 | 96 | 86 | 96 | 106 | 96 | 106 | 115 | 106 | 115 | 132 |
| 17 | 68 | 82 | 92 | 82 | 92 | 102 | 92 | 102 | 112 | 102 | 112 | 122 | 112 | 122 | 144 |
| 18 | 72 | 86 | 97 | 86 | 97 | 108 | 97 | 108 | 119 | 108 | 119 | 130 | 119 | 130 | 156 |
| 19 | 76 | 91 | 103 | 91 | 103 | 114 | 103 | 114 | 125 | 114 | 125 | 137 | 125 | 137 | 168 |
| 20 | 80 | 96 | 108 | 96 | 108 | 120 | 108 | 120 | 132 | 120 | 132 | 144 | 132 | 144 | 180 |
| 21 | 84 | 101 | 113 | 101 | 113 | 126 | 113 | 126 | 139 | 126 | 139 | 151 | 139 | 151 | 192 |
| 22 | 88 | 106 | 119 | 106 | 119 | 132 | 119 | 132 | 145 | 132 | 145 | 158 | 145 | 158 | 204 |
| 23 | 92 | 110 | 124 | 110 | 124 | 138 | 124 | 138 | 152 | 138 | 152 | 166 | 152 | 166 | 216 |
| 24 | 96 | 115 | 130 | 115 | 130 | 144 | 130 | 144 | 158 | 144 | 158 | 173 | 158 | 173 | 228 |
| 25 | 100 | 120 | 135 | 120 | 135 | 150 | 135 | 150 | 165 | 150 | 165 | 180 | 165 | 180 | 240 |
| 26 | 104 | 125 | 140 | 125 | 140 | 156 | 140 | 156 | 172 | 156 | 172 | 187 | 172 | 187 | 252 |
| 27 | 108 | 130 | 146 | 130 | 146 | 162 | 146 | 162 | 178 | 162 | 178 | 194 | 178 | 194 | 264 |
| 28 | 112 | 134 | 151 | 134 | 151 | 168 | 151 | 168 | 185 | 168 | 185 | 202 | 185 | 202 | 276 |
| 29 | 116 | 139 | 157 | 139 | 157 | 174 | 157 | 174 | 191 | 174 | 191 | 209 | 191 | 209 | 288 |
| 30 | 120 | 144 | 162 | 144 | 162 | 180 | 162 | 180 | 198 | 180 | 198 | 216 | 198 | 216 | 300 |

Sex and Child Abuse

C and D Felonies

| Sentence (yrs) | Excellent | | | Above Average | | | Average | | | Below Average | | | Poor | | |
|-------------------|-----------|-------|------|---------------|-------|------|---------|-------|------|---------------|-------|------|------|-------|------|
| | Min. | Guide | Max. | Min. | Guide | Max. | Min. | Guide | Max. | Min. | Guide | Max. | Min. | Guide | Max. |
| | 33% | 35% | 40% | 35% | 40% | 45% | 40% | 45% | 50% | 45% | 50% | 55% | 50% | 55% | C.R. |
| 2 | 8 | 8 | 10 | 8 | 10 | 11 | 10 | 11 | 12 | 11 | 12 | 13 | 12 | 13 | 16 |
| 3 | 12 | 13 | 14 | 13 | 14 | 16 | 14 | 16 | 18 | 16 | 18 | 20 | 18 | 20 | 24 |
| 4 | 16 | 17 | 19 | 17 | 19 | 22 | 19 | 22 | 24 | 22 | 24 | 26 | 24 | 26 | 32 |
| 5 | 20 | 21 | 24 | 21 | 24 | 27 | 24 | 27 | 30 | 27 | 30 | 33 | 30 | 33 | 40 |
| 6 | 24 | 25 | 29 | 25 | 29 | 32 | 29 | 32 | 36 | 32 | 36 | 40 | 36 | 40 | 48 |
| 7 | 28 | 29 | 34 | 29 | 34 | 38 | 34 | 38 | 42 | 38 | 42 | 46 | 42 | 46 | 56 |

A and B Felonies

| Sentence (yrs) | Excellent | | | Above Average | | | Average | | | Below Average | | | Poor | | |
|-------------------|-----------|-------|------|---------------|-------|------|---------|-------|------|---------------|-------|------|------|-------|------|
| | Min. | Guide | Max. | Min. | Guide | Max. | Min. | Guide | Max. | Min. | Guide | Max. | Min. | Guide | Max. |
| | 33% | 40% | 45% | 40% | 45% | 50% | 45% | 50% | 55% | 45% | 50% | 55% | 50% | 55% | C.R. |
| 5 | 20 | 24 | 27 | 24 | 27 | 30 | 27 | 30 | 33 | 27 | 30 | 33 | 30 | 33 | 40 |
| 6 | 24 | 29 | 32 | 29 | 32 | 36 | 32 | 36 | 40 | 32 | 36 | 40 | 36 | 40 | 48 |
| 7 | 28 | 34 | 38 | 34 | 38 | 42 | 38 | 42 | 46 | 38 | 42 | 46 | 42 | 46 | 56 |
| 8 | 32 | 38 | 43 | 38 | 43 | 48 | 43 | 48 | 53 | 43 | 48 | 53 | 48 | 53 | 64 |
| 9 | 36 | 43 | 49 | 43 | 49 | 54 | 49 | 54 | 59 | 49 | 54 | 59 | 54 | 59 | 72 |
| 10 | 40 | 48 | 54 | 48 | 54 | 60 | 54 | 60 | 66 | 54 | 60 | 66 | 60 | 66 | 84 |
| 11 | 44 | 53 | 59 | 53 | 59 | 66 | 59 | 66 | 73 | 59 | 66 | 73 | 66 | 73 | 96 |
| 12 | 48 | 58 | 65 | 58 | 65 | 72 | 65 | 72 | 79 | 65 | 72 | 79 | 72 | 79 | 108 |
| 13 | 52 | 62 | 70 | 62 | 70 | 78 | 70 | 78 | 86 | 70 | 78 | 86 | 78 | 86 | 120 |
| 14 | 56 | 67 | 76 | 67 | 76 | 84 | 76 | 84 | 92 | 76 | 84 | 92 | 84 | 92 | 132 |
| 15 | 60 | 72 | 81 | 72 | 81 | 90 | 81 | 90 | 99 | 81 | 90 | 99 | 90 | 99 | 144 |
| 16 | 64 | 77 | 86 | 77 | 86 | 96 | 86 | 96 | 106 | 86 | 96 | 106 | 96 | 106 | 132 |
| 17 | 68 | 82 | 92 | 82 | 92 | 102 | 92 | 102 | 112 | 92 | 102 | 112 | 102 | 112 | 144 |
| 18 | 72 | 86 | 97 | 86 | 97 | 108 | 97 | 108 | 119 | 97 | 108 | 119 | 108 | 119 | 156 |
| 19 | 76 | 91 | 103 | 91 | 103 | 114 | 103 | 114 | 125 | 103 | 114 | 125 | 114 | 125 | 168 |
| 20 | 80 | 96 | 108 | 96 | 108 | 120 | 108 | 120 | 132 | 108 | 120 | 132 | 120 | 132 | 180 |
| 21 | 84 | 101 | 113 | 101 | 113 | 126 | 113 | 126 | 139 | 113 | 126 | 139 | 126 | 139 | 192 |
| 22 | 88 | 106 | 119 | 106 | 119 | 132 | 119 | 132 | 145 | 119 | 132 | 145 | 132 | 145 | 204 |
| 23 | 92 | 110 | 124 | 110 | 124 | 138 | 124 | 138 | 152 | 124 | 138 | 152 | 138 | 152 | 216 |
| 24 | 96 | 115 | 130 | 115 | 130 | 144 | 130 | 144 | 158 | 130 | 144 | 158 | 144 | 158 | 228 |
| 25 | 100 | 120 | 135 | 120 | 135 | 150 | 135 | 150 | 165 | 135 | 150 | 165 | 150 | 165 | 240 |
| 26 | 104 | 125 | 140 | 125 | 140 | 156 | 140 | 156 | 172 | 140 | 156 | 172 | 156 | 172 | 252 |
| 27 | 108 | 130 | 146 | 130 | 146 | 162 | 146 | 162 | 178 | 146 | 162 | 178 | 162 | 178 | 264 |
| 28 | 112 | 134 | 151 | 134 | 151 | 168 | 151 | 168 | 185 | 151 | 168 | 185 | 168 | 185 | 276 |
| 29 | 116 | 139 | 157 | 139 | 157 | 174 | 157 | 174 | 191 | 157 | 174 | 191 | 174 | 191 | 288 |
| 30 | 120 | 144 | 162 | 144 | 162 | 180 | 162 | 180 | 198 | 162 | 180 | 198 | 180 | 198 | 300 |

Non-Violent Offenses

C and D Felonies

| Sentence (yrs) | Excellent | | | Above Average | | | Average | | | Below Average | | | Poor | | |
|-------------------|-----------|-------|------|---------------|-------|------|---------|-------|------|---------------|-------|------|------|-------|------|
| | Min. | Guide | Max. | Min. | Guide | Max. | Min. | Guide | Max. | Min. | Guide | Max. | Min. | Guide | Max. |
| | 15% | 15% | 20% | 15% | 17% | 20% | 15% | 20% | 25% | 25% | 33% | 40% | 45% | 50% | C.R. |
| 2 | 4 | 4 | 5 | 4 | 4 | 5 | 4 | 5 | 6 | 6 | 8 | 10 | 11 | 12 | 16 |
| 3 | 5 | 5 | 7 | 5 | 6 | 7 | 5 | 7 | 9 | 9 | 12 | 14 | 16 | 18 | 24 |
| 4 | 7 | 7 | 10 | 7 | 8 | 10 | 7 | 10 | 12 | 12 | 16 | 19 | 22 | 24 | 32 |
| 5 | 9 | 9 | 12 | 9 | 10 | 12 | 9 | 12 | 15 | 15 | 20 | 24 | 27 | 30 | 40 |
| 6 | 11 | 11 | 14 | 11 | 12 | 14 | 11 | 14 | 18 | 18 | 24 | 29 | 32 | 36 | 48 |
| 7 | 13 | 13 | 17 | 13 | 14 | 17 | 13 | 17 | 21 | 21 | 28 | 34 | 38 | 42 | 56 |

A and B Felonies

| Sentence (yrs) | Excellent | | | Above Average | | | Average | | | Below Average | | | Poor | | |
|-------------------|-----------|-------|------|---------------|-------|------|---------|-------|------|---------------|-------|------|------|-------|------|
| | Min. | Guide | Max. | Min. | Guide | Max. | Min. | Guide | Max. | Min. | Guide | Max. | Min. | Guide | Max. |
| | 25% | 30% | 35% | 30% | 35% | 40% | 35% | 40% | 45% | 40% | 45% | 55% | 45% | 50% | C.R. |
| 5 | 15 | 18 | 21 | 18 | 21 | 24 | 21 | 24 | 27 | 24 | 27 | 33 | 27 | 30 | 40 |
| 6 | 18 | 22 | 25 | 22 | 25 | 29 | 25 | 29 | 32 | 29 | 32 | 40 | 32 | 36 | 48 |
| 7 | 21 | 25 | 29 | 25 | 29 | 34 | 29 | 34 | 38 | 34 | 38 | 46 | 38 | 42 | 56 |
| 8 | 24 | 29 | 34 | 29 | 34 | 38 | 34 | 38 | 43 | 38 | 43 | 53 | 43 | 48 | 64 |
| 9 | 27 | 32 | 38 | 32 | 38 | 43 | 38 | 43 | 49 | 43 | 49 | 59 | 49 | 54 | 72 |
| 10 | 30 | 36 | 42 | 36 | 42 | 48 | 42 | 48 | 54 | 48 | 54 | 66 | 54 | 60 | 84 |
| 11 | 33 | 40 | 46 | 40 | 46 | 53 | 46 | 53 | 59 | 53 | 59 | 73 | 59 | 66 | 96 |
| 12 | 36 | 43 | 50 | 43 | 50 | 58 | 50 | 58 | 65 | 58 | 65 | 79 | 65 | 72 | 108 |
| 13 | 39 | 47 | 55 | 47 | 55 | 62 | 55 | 62 | 70 | 62 | 70 | 86 | 70 | 78 | 120 |
| 14 | 42 | 50 | 59 | 50 | 59 | 67 | 59 | 67 | 76 | 67 | 76 | 92 | 76 | 84 | 132 |
| 15 | 45 | 54 | 63 | 54 | 63 | 72 | 63 | 72 | 81 | 72 | 81 | 99 | 81 | 90 | 144 |
| 16 | 48 | 58 | 67 | 58 | 67 | 77 | 67 | 77 | 86 | 77 | 86 | 106 | 86 | 96 | 132 |
| 17 | 51 | 61 | 71 | 61 | 71 | 82 | 71 | 82 | 92 | 82 | 92 | 112 | 92 | 102 | 144 |
| 18 | 54 | 65 | 76 | 65 | 76 | 86 | 76 | 86 | 97 | 86 | 97 | 119 | 97 | 108 | 156 |
| 19 | 57 | 68 | 80 | 68 | 80 | 91 | 80 | 91 | 103 | 91 | 103 | 125 | 103 | 114 | 168 |
| 20 | 60 | 72 | 84 | 72 | 84 | 96 | 84 | 96 | 108 | 96 | 108 | 132 | 108 | 120 | 180 |
| 21 | 63 | 76 | 88 | 76 | 88 | 101 | 88 | 101 | 113 | 101 | 113 | 139 | 113 | 126 | 192 |
| 22 | 66 | 79 | 92 | 79 | 92 | 106 | 92 | 106 | 119 | 106 | 119 | 145 | 119 | 132 | 204 |
| 23 | 69 | 83 | 97 | 83 | 97 | 110 | 97 | 110 | 124 | 110 | 124 | 152 | 124 | 138 | 216 |
| 24 | 72 | 86 | 101 | 86 | 101 | 115 | 101 | 115 | 130 | 115 | 130 | 158 | 130 | 144 | 228 |
| 25 | 75 | 90 | 105 | 90 | 105 | 120 | 105 | 120 | 135 | 120 | 135 | 165 | 135 | 150 | 240 |
| 26 | 78 | 94 | 109 | 94 | 109 | 125 | 109 | 125 | 140 | 125 | 140 | 172 | 140 | 156 | 252 |
| 27 | 81 | 97 | 113 | 97 | 113 | 130 | 113 | 130 | 146 | 130 | 146 | 178 | 146 | 162 | 264 |
| 28 | 84 | 101 | 118 | 101 | 118 | 134 | 118 | 134 | 151 | 134 | 151 | 185 | 151 | 168 | 276 |
| 29 | 87 | 104 | 122 | 104 | 122 | 139 | 122 | 139 | 157 | 139 | 157 | 191 | 157 | 174 | 288 |
| 30 | 90 | 108 | 126 | 108 | 126 | 144 | 126 | 144 | 162 | 144 | 162 | 198 | 162 | 180 | 300 |

Board of Probation and Parole Guideline Matrix for Minimum Eligibility
25% for non-violent C and D offenders with enhanced sentences

Non-Violent Offenses

Offenders with Enhanced C and D Felony Sentences (convicted as a Prior and Persistent Offender)

| Sentence (yrs) | Excellent | | | Above Average | | | Average | | | Below Average | | | Poor | | |
|-------------------|-----------|-------|------|---------------|-------|------|---------|-------|------|---------------|-------|------|------|-------|------|
| | Min. | Guide | Max. | Min. | Guide | Max. | Min. | Guide | Max. | Min. | Guide | Max. | Min. | Guide | Max. |
| | 25% | 25% | 25% | 25% | 27% | 29% | 25% | 29% | 32% | 33% | 45% | 50% | 33% | 50% | C.R. |
| 5 | 15 | 15 | 15 | 15 | 16 | 17 | 15 | 17 | 19 | 20 | 27 | 30 | 20 | 30 | 40 |
| 6 | 18 | 18 | 18 | 18 | 19 | 21 | 18 | 21 | 23 | 24 | 32 | 36 | 24 | 36 | 48 |
| 7 | 21 | 21 | 21 | 21 | 23 | 24 | 21 | 24 | 27 | 28 | 38 | 42 | 28 | 42 | 56 |
| 8 | 24 | 24 | 24 | 24 | 26 | 28 | 24 | 28 | 31 | 32 | 43 | 48 | 32 | 48 | 64 |
| 9 | 27 | 27 | 27 | 27 | 29 | 31 | 27 | 31 | 35 | 36 | 49 | 54 | 36 | 54 | 72 |
| 10 | 30 | 30 | 30 | 30 | 32 | 35 | 30 | 35 | 38 | 40 | 54 | 60 | 40 | 60 | 84 |
| 11 | 33 | 33 | 33 | 33 | 36 | 38 | 33 | 38 | 42 | 44 | 59 | 66 | 44 | 66 | 96 |
| 12 | 36 | 36 | 36 | 36 | 39 | 42 | 36 | 42 | 46 | 48 | 65 | 72 | 48 | 72 | 108 |
| 13 | 39 | 39 | 39 | 39 | 42 | 45 | 39 | 45 | 50 | 52 | 70 | 78 | 52 | 78 | 120 |
| 14 | 42 | 42 | 42 | 42 | 45 | 49 | 42 | 49 | 54 | 56 | 76 | 84 | 56 | 84 | 132 |
| 15 | 45 | 45 | 45 | 45 | 49 | 52 | 45 | 52 | 58 | 60 | 81 | 90 | 60 | 90 | 144 |
| 16 | 48 | 48 | 48 | 48 | 52 | 56 | 48 | 56 | 61 | 64 | 86 | 96 | 64 | 96 | 132 |
| 17 | 51 | 51 | 51 | 51 | 55 | 59 | 51 | 59 | 65 | 68 | 92 | 102 | 68 | 102 | 144 |
| 18 | 54 | 54 | 54 | 54 | 58 | 63 | 54 | 63 | 69 | 72 | 97 | 108 | 72 | 108 | 156 |
| 19 | 57 | 57 | 57 | 57 | 62 | 66 | 57 | 66 | 73 | 76 | 103 | 114 | 76 | 114 | 168 |
| 20 | 60 | 60 | 60 | 60 | 65 | 70 | 60 | 70 | 77 | 80 | 108 | 120 | 80 | 120 | 180 |

**Board of Probation and Parole Guideline Matrix for Minimum
Eligibility 25% for DWI offenders with enhanced sentences**

DWI

D Felonies

| Sentence (yrs) | Excellent | | | Above Average | | | Average | | | Below Average | | | Poor | | |
|-------------------|-----------|-------|------|---------------|-------|------|---------|-------|------|---------------|-------|------|------|-------|------|
| | Min. | Guide | Max. | Min. | Guide | Max. | Min. | Guide | Max. | Min. | Guide | Max. | Min. | Guide | Max. |
| | 15% | 15% | 20% | 15% | 20% | 25% | 25% | 30% | 35% | 35% | 40% | 45% | 45% | 50% | C.R. |
| 2 | 4 | 4 | 5 | 4 | 5 | 6 | 6 | 7 | 8 | 8 | 10 | 11 | 11 | 12 | 16 |
| 3 | 5 | 5 | 7 | 5 | 7 | 9 | 9 | 11 | 13 | 13 | 14 | 16 | 16 | 18 | 24 |
| 4 | 7 | 7 | 10 | 7 | 10 | 12 | 12 | 14 | 17 | 17 | 19 | 22 | 22 | 24 | 32 |
| 5 | 9 | 9 | 12 | 9 | 12 | 15 | 15 | 18 | 21 | 21 | 24 | 27 | 27 | 30 | 40 |

DWI

Offenders with Enhanced Sentences (convicted as a Prior and Persistent Offender)

| Sentence (yrs) | Excellent | | | Above Average | | | Average | | | Below Average | | | Poor | | |
|-------------------|-----------|-------|------|---------------|-------|------|---------|-------|------|---------------|-------|------|------|-------|------|
| | Min. | Guide | Max. | Min. | Guide | Max. | Min. | Guide | Max. | Min. | Guide | Max. | Min. | Guide | Max. |
| | 25% | 27% | 30% | 25% | 30% | 35% | 30% | 35% | 40% | 40% | 45% | 50% | 50% | 60% | C.R. |
| 5 | 15 | 16 | 18 | 15 | 18 | 21 | 18 | 21 | 24 | 24 | 27 | 30 | 30 | 36 | 40 |
| 6 | 18 | 19 | 22 | 18 | 22 | 25 | 22 | 25 | 29 | 29 | 32 | 36 | 36 | 43 | 48 |
| 7 | 21 | 23 | 25 | 21 | 25 | 29 | 25 | 29 | 34 | 34 | 38 | 42 | 42 | 50 | 56 |
| 8 | 24 | 26 | 29 | 24 | 29 | 34 | 29 | 34 | 38 | 38 | 43 | 48 | 48 | 58 | 64 |
| 9 | 27 | 29 | 32 | 27 | 32 | 38 | 32 | 38 | 43 | 43 | 49 | 54 | 54 | 65 | 72 |
| 10 | 30 | 32 | 36 | 30 | 36 | 42 | 36 | 42 | 48 | 48 | 54 | 60 | 60 | 72 | 84 |

Parole Board Releases: Time Served by Offense Group and Risk Category

Statistics used in the SARs to indicate expected time served for prison sentences

Time Served by New Court Commitments in FY04 and Guideline Time

By Offender Risk Score

| Offense Group | Felony Classes | Offender Risk: Salient Factor Score | FY04 Releases | Ave. Sent. (Mths) | Actual Time Served | | Guideline Term | | Highest of Guideline or MMPT | |
|----------------------|-------------------------|-------------------------------------|---------------|-------------------|--------------------|---------|----------------|---------|------------------------------|---------|
| | | | | | (Mths) | Percent | (Mths) | Percent | (Mths) | Percent |
| DWI | C & D | 1. Good | 55 | 39.2 | 12.2 | 31.2 | 5.6 | 15 | 8.2 | 21.0 |
| | | 2. Above Average | 69 | 47.4 | 18.9 | 39.9 | 9.7 | 20 | 15.4 | 32.4 |
| | | 3. Average | 47 | 41.7 | 21.1 | 50.5 | 12.5 | 30 | 16.7 | 39.9 |
| | | 4. Below Average | 6 | 46.0 | 32.2 | 69.9 | 18.2 | 40 | 28.7 | 51.5 |
| | | 5. Poor | - | | | | | | | |
| | Total DWI | | 177 | 43.3 | 17.9 | 41.3 | 9.5 | 22 | 13.9 | 32.2 |
| Nonviolent and Drugs | A & B | 1. Good | 203 | 99.7 | 34.5 | 34.6 | 29.8 | 30 | 31.4 | 31.5 |
| | | 2. Above Average | 131 | 93.4 | 37.1 | 39.7 | 32.4 | 35 | 33.8 | 36.2 |
| | | 3. Average | 126 | 96.1 | 46.4 | 48.2 | 38.5 | 40 | 40.3 | 41.9 |
| | | 4. Below Average | 36 | 108.3 | 59.5 | 54.9 | 48.5 | 45 | 49.6 | 45.7 |
| | | 5. Poor | 10 | 76.8 | 49.3 | 64.2 | 38.4 | 50 | 38.4 | 56.8 |
| | Total NVI AB | | 506 | 97.4 | 40.2 | 41.3 | 34.1 | 35 | 35.7 | 36.6 |
| | C & D | 1. Good | 381 | 52.7 | 13.5 | 25.6 | 8.1 | 15 | 8.8 | 16.6 |
| | | 2. Above Average | 299 | 54.4 | 18.4 | 33.9 | 10.1 | 17 | 12.8 | 23.5 |
| | | 3. Average | 396 | 54.9 | 22.4 | 40.7 | 11.8 | 20 | 17.0 | 30.9 |
| | | 4. Below Average | 125 | 58.9 | 28.2 | 47.9 | 20.7 | 33 | 24.7 | 41.9 |
| | | 5. Poor | 45 | 59.5 | 39.0 | 65.7 | 29.6 | 50 | 31.9 | 53.7 |
| | Total NVI CD | | 1,246 | 54.7 | 19.9 | 36.4 | 11.8 | 22 | 14.8 | 27.0 |
| | Total Non Violent | | 1,752 | 67.0 | 25.8 | 38.5 | 18.2 | 27 | 20.8 | 31.1 |
| Sex & Child Abuse | A & B | 1. Good | 93 | 128.8 | 97.8 | 75.9 | 51.6 | 40 | 53.2 | 41.3 |
| | | 2. Above Average | 27 | 128.4 | 106.4 | 82.8 | 57.8 | 45 | 57.8 | 45.0 |
| | | 3. Average | 11 | 112.4 | 93.9 | 83.6 | 56.2 | 50 | 56.2 | 50.0 |
| | | 4. Below Average | 4 | 201.0 | 162.8 | 81.0 | 100.5 | 50 | 121.3 | 58.3 |
| | | 5. Poor | 2 | 168.0 | 141.1 | 84.0 | 92.5 | 55 | 92.5 | 65.1 |
| | Total Sex AB | | 137 | 130.1 | 100.8 | 77.4 | 55.2 | 42 | 56.9 | 43.7 |
| | C & D | 1. Good | 105 | 61.6 | 43.3 | 70.3 | 21.5 | 35 | 21.5 | 35.0 |
| | | 2. Above Average | 26 | 57.8 | 47.5 | 82.1 | 22.9 | 40 | 23.3 | 40.3 |
| | | 3. Average | 20 | 51.6 | 39.5 | 76.6 | 23.3 | 45 | 23.7 | 45.9 |
| | | 4. Below Average | 6 | 54.0 | 50.7 | 93.8 | 27.0 | 50 | 32.8 | 60.8 |
| | | 5. Poor | 1 | 60.0 | 60.0 | 100.0 | 33.0 | 55 | 33.0 | 64.3 |
| | Total Sex CD | | 158 | 59.4 | 43.9 | 73.9 | 22.2 | 37 | 22.6 | 38.1 |
| | Total Sex & Child Abuse | | 295 | 92.2 | 70.3 | 76.2 | 37.5 | 41 | 38.5 | 41.8 |
| Violent | A & B | 1. Good | 147 | 153.5 | 91.6 | 59.7 | 61.4 | 40 | 71.1 | 46.3 |
| | | 2. Above Average | 75 | 156.6 | 93.8 | 59.9 | 70.5 | 45 | 79.6 | 50.8 |
| | | 3. Average | 93 | 135.9 | 97.0 | 71.4 | 67.9 | 50 | 73.3 | 53.9 |
| | | 4. Below Average | 22 | 142.9 | 103.5 | 72.5 | 78.6 | 55 | 85.3 | 59.7 |
| | | 5. Poor | 16 | 129.8 | 102.1 | 78.7 | 77.8 | 60 | 82.5 | 63.6 |
| | Total Violent AB | | 353 | 147.8 | 94.7 | 64.1 | 66.9 | 45 | 74.9 | 50.7 |
| | C & D | 1. Good | 98 | 63.4 | 29.2 | 46.0 | 22.1 | 35 | 23.7 | 37.5 |
| | | 2. Above Average | 67 | 64.7 | 26.0 | 40.2 | 25.9 | 40 | 27.0 | 41.7 |
| | | 3. Average | 49 | 62.1 | 33.3 | 53.6 | 28.0 | 45 | 28.8 | 46.4 |
| | | 4. Below Average | 18 | 58.7 | 43.2 | 73.7 | 29.9 | 51 | 33.0 | 56.3 |
| | | 5. Poor | 2 | 66.0 | 34.5 | 52.3 | 36.0 | 55 | 46.0 | 69.7 |
| | Total Violent CD | | 234 | 63.2 | 30.3 | 47.9 | 25.1 | 40 | 26.6 | 42.2 |
| | Total Violent | | 587 | 114.0 | 69.0 | 60.5 | 50.2 | 44 | 55.6 | 48.8 |
| TOTAL | | | 2,811 | 78.0 | 39.0 | 50.0 | 26.4 | 34 | 29.5 | 37.8 |

Note: The above statistics on expected time served assume an equivalence between the court-based offender risk score and the Board of Probation and Parole's salient factor score. The Court's **Good** category is equivalent to the Board's **Excellent** category.

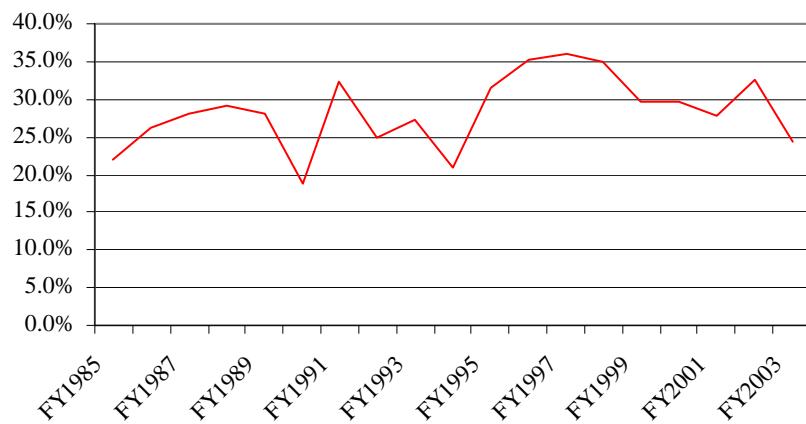
Appendix F

Death Penalty Sentencing Statistics

Offenders Received for Murder I (FY95-FY03)

| | Death Penalty | Life | Total | Percent Capital |
|--------|---------------|------|-------|-----------------|
| FY1985 | 1 | 21 | 22 | 4.5% |
| FY1986 | 4 | 25 | 29 | 13.8% |
| FY1987 | 6 | 32 | 38 | 15.8% |
| FY1988 | 5 | 35 | 40 | 12.5% |
| FY1989 | 6 | 33 | 39 | 15.4% |
| FY1990 | 3 | 22 | 25 | 12.0% |
| FY1991 | 6 | 41 | 47 | 12.8% |
| FY1992 | 8 | 32 | 40 | 20.0% |
| FY1993 | 7 | 40 | 47 | 14.9% |
| FY1994 | 4 | 31 | 35 | 11.4% |
| FY1995 | 5 | 57 | 62 | 8.1% |
| FY1996 | 4 | 66 | 70 | 5.7% |
| FY1997 | 6 | 47 | 53 | 11.3% |
| FY1998 | 5 | 48 | 53 | 9.4% |
| FY1999 | 4 | 37 | 41 | 9.8% |
| FY2000 | 7 | 39 | 46 | 15.2% |
| FY2001 | 2 | 33 | 35 | 5.7% |
| FY2002 | 2 | 41 | 43 | 4.7% |
| FY2003 | 2 | 33 | 35 | 5.7% |
| FY2004 | 0 | 11 | 11 | 0.0% |
| Total | 87 | 713 | 800 | 10.9% |

Murder 1 as Percent of Murder



Offenders Received for Murder 1 and Murder 2**FY05-FY04 (to November, 2003)**

| | Murder I | Murder II | Total | Percent Murder I |
|--------|----------|-----------|-------|---------------------|
| FY1985 | 22 | 78 | 100 | 22.0% |
| FY1986 | 29 | 82 | 111 | 26.1% |
| FY1987 | 38 | 97 | 135 | 28.1% |
| FY1988 | 40 | 97 | 137 | 29.2% |
| FY1989 | 39 | 100 | 139 | 28.1% |
| FY1990 | 25 | 108 | 133 | 18.8% |
| FY1991 | 47 | 98 | 145 | 32.4% |
| FY1992 | 40 | 121 | 161 | 24.8% |
| FY1993 | 47 | 126 | 173 | 27.2% |
| FY1994 | 35 | 133 | 168 | 20.8% |
| FY1995 | 62 | 135 | 197 | 31.5% |
| FY1996 | 70 | 129 | 199 | 35.2% |
| FY1997 | 53 | 94 | 147 | 36.1% |
| FY1998 | 53 | 99 | 152 | 34.9% |
| FY1999 | 41 | 97 | 138 | 29.7% |
| FY2000 | 46 | 109 | 155 | 29.7% |
| FY2001 | 35 | 91 | 126 | 27.8% |
| FY2002 | 43 | 89 | 132 | 32.6% |
| FY2003 | 35 | 109 | 144 | 24.3% |
| FY2004 | 11 | 25 | 36 | 30.6% |
| Total | 811 | 2,017 | 2,828 | 28.7% |

Offenders Received for Murder I, By Race

| | African Americans | | | | Other Races | | | |
|--------|-------------------|------|-------|-----------------|---------------|------|-------|-----------------|
| | Death Penalty | Life | Total | Percent Capital | Death Penalty | Life | Total | Percent Capital |
| FY1985 | 0 | 8 | 8 | 0.0% | 1 | 14 | 15 | 6.7% |
| FY1986 | 1 | 13 | 14 | 7.1% | 3 | 16 | 19 | 15.8% |
| FY1987 | 2 | 16 | 18 | 11.1% | 4 | 22 | 26 | 15.4% |
| FY1988 | 0 | 12 | 12 | 0.0% | 5 | 28 | 33 | 15.2% |
| FY1989 | 2 | 20 | 22 | 9.1% | 4 | 19 | 23 | 17.4% |
| FY1990 | 1 | 15 | 16 | 6.3% | 2 | 10 | 12 | 16.7% |
| FY1991 | 4 | 27 | 31 | 12.9% | 2 | 20 | 22 | 9.1% |
| FY1992 | 1 | 22 | 23 | 4.3% | 7 | 18 | 25 | 28.0% |
| FY1993 | 4 | 17 | 21 | 19.0% | 3 | 30 | 33 | 9.1% |
| FY1994 | 1 | 22 | 23 | 4.3% | 3 | 13 | 16 | 18.8% |
| FY1995 | 3 | 36 | 39 | 7.7% | 2 | 26 | 28 | 7.1% |
| FY1996 | 2 | 39 | 41 | 4.9% | 2 | 31 | 33 | 6.1% |
| FY1997 | 1 | 30 | 31 | 3.2% | 5 | 23 | 28 | 17.9% |
| FY1998 | 1 | 24 | 25 | 4.0% | 4 | 29 | 33 | 12.1% |
| FY1999 | 1 | 20 | 21 | 4.8% | 3 | 21 | 24 | 12.5% |
| FY2000 | 2 | 24 | 26 | 7.7% | 5 | 22 | 27 | 18.5% |
| FY2001 | 1 | 21 | 22 | 4.5% | 1 | 14 | 15 | 6.7% |
| FY2002 | 1 | 24 | 25 | 4.0% | 1 | 19 | 20 | 5.0% |
| FY2003 | 1 | 11 | 12 | 8.3% | 1 | 24 | 25 | 4.0% |
| FY2004 | 0 | 6 | 6 | 0.0% | 0 | 5 | 5 | 0.0% |
| Total | 29 | 407 | 436 | 6.7% | 58 | 404 | 462 | 12.6% |

Offenders Received with Murder By Race

| | African Americans | | | | Other Races | | | |
|--------|-------------------|-----------|-------|------------------|-------------|-----------|-------|------------------|
| | Murder I | Murder II | Total | Percent Murder I | Murder I | Murder II | Total | Percent Murder I |
| FY1985 | 8 | 33 | 41 | 19.5% | 14 | 45 | 59 | 23.7% |
| FY1986 | 13 | 41 | 54 | 24.1% | 16 | 41 | 57 | 28.1% |
| FY1987 | 16 | 57 | 73 | 21.9% | 22 | 40 | 62 | 35.5% |
| FY1988 | 12 | 52 | 64 | 18.8% | 28 | 45 | 73 | 38.4% |
| FY1989 | 20 | 60 | 80 | 25.0% | 19 | 40 | 59 | 32.2% |
| FY1990 | 15 | 75 | 90 | 16.7% | 10 | 33 | 43 | 23.3% |
| FY1991 | 27 | 58 | 85 | 31.8% | 20 | 40 | 60 | 33.3% |
| FY1992 | 22 | 82 | 104 | 21.2% | 18 | 39 | 57 | 31.6% |
| FY1993 | 17 | 74 | 91 | 18.7% | 30 | 52 | 82 | 36.6% |
| FY1994 | 22 | 74 | 96 | 22.9% | 13 | 59 | 72 | 18.1% |
| FY1995 | 36 | 84 | 120 | 30.0% | 26 | 51 | 77 | 33.8% |
| FY1996 | 39 | 88 | 127 | 30.7% | 31 | 41 | 72 | 43.1% |
| FY1997 | 30 | 55 | 85 | 35.3% | 23 | 39 | 62 | 37.1% |
| FY1998 | 24 | 50 | 74 | 32.4% | 29 | 49 | 78 | 37.2% |
| FY1999 | 20 | 61 | 81 | 24.7% | 21 | 36 | 57 | 36.8% |
| FY2000 | 24 | 60 | 84 | 28.6% | 22 | 49 | 71 | 31.0% |
| FY2001 | 21 | 51 | 72 | 29.2% | 14 | 40 | 54 | 25.9% |
| FY2002 | 24 | 50 | 74 | 32.4% | 19 | 39 | 58 | 32.8% |
| FY2003 | 11 | 58 | 69 | 15.9% | 24 | 51 | 75 | 32.0% |
| FY2004 | 6 | 12 | 18 | 33.3% | 5 | 13 | 18 | 27.8% |
| Total | 407 | 1,175 | 1,582 | 25.7% | 404 | 842 | 1,246 | 32.4% |

Appendix G

COMMISSION SURVEYS JUDGES IN PILOT PROJECTS

The Missouri Sentencing Advisory Commission contracted with the University of Missouri Columbia's Institute of Public Policy in March to survey judges using the new Sentencing Assessment Reports in portions of the pilot circuits located in the following counties: Buchanan, Cape Girardeau, Cass, Franklin, St. Louis and Taney. Following is the executive summary of that survey.

During the spring of 2005, the Institute of Public Policy examined judges' perceptions of the new sentencing assessment reports implemented in six circuits in January 2005. The purpose of the review was to determine judges' opinions about the reports and to identify ways that the reports could be improved.

The Institute surveyed judges in the six pilot circuits in April 2005 using both a paper survey and an optional online survey. Questions were developed in cooperation with the staff of the Missouri Sentencing Advisory Commission and the Board of Probation and Parole. After the responses to the survey had been reviewed, additional questions were developed and used in a telephone interview with those judges more experienced with sentencing assessment reports.

The assessment of the new reports occurred very early in the implementation process. Consequently, only 19 judges had reviewed a sentencing assessment report and only 283 reports had been reviewed in total by judges in these circuits. In addition, the sentencing assessment report was modified in mid-March, following an analysis of early reports conducted by the staff of the Board of Probation and Parole, and some of the judges responding to the survey had opinions of the report based upon the initial rather than the revised report. Most of those who responded to the survey had minimal experience with the sentencing assessment report and had not formed opinions about many of the strengths and weaknesses of the new reports as compared to the pre-sentence investigation reports. Finally, some of the judges attended one of the judicial training programs during the months of April and May, but others did not. As a result of these factors, this report describes how judges and parole officers are adapting to the new system as well as their overall perceptions of the value and effectiveness of the sentencing assessment reports.

We also interviewed nine of the 19 judges who responded to the survey, in person or by telephone, to obtain more in-depth information about their reactions to the sentencing assessment reports. The interviews were conducted in late May and early June -- five to eight weeks after the judges had completed the survey. In general, we found that judges and parole officers were adjusting to the changes brought by the use of sentencing assessment reports in that some of the issues identified in the surveys were no longer problems.

Findings regarding the sentencing assessment reports

Specific findings concerning the sentencing assessment reports are outlined below.

- *Aggravating and mitigating circumstances* – Judges responding to the survey overwhelmingly endorsed the summary of aggravating and mitigating circumstances as an improvement over the information provided in the old pre-sentence investigations.

- *Information on time served* – This information was not contained in the pre-sentencing investigation reports and was considered a beneficial addition by the judges.

- *Format* – Format is straight-forward and easy to understand. The summary on the last page is very helpful.

- *Sentencing Commission standard* – Almost always called the “recommended sentence”, the standard provides consistency and allows victims and defendants alike to know the basis of the sentence, although some judges questioned the value of recommended sentences.

Findings regarding implementation

There are adjustments that must be made after the adoption of any significant change in organizational procedures. We found evidence that adjustments are being made in our survey and interviews, and we found other issues that the Sentencing Commission may wish to consider. These are outlined below.

- *Sufficiency of information about the offender* – A number of judges responded to the survey by indicating that the sentencing assessment report focused too much on the offense and provided too little about the offender. However, few of the judges interviewed thought that this was a continuing issue. We infer that both judges and parole officers learned more about the reports in the intervening time and were able to use them more effectively.

- *More information on alternative sentencing options* – Judges usually knew what sentencing alternatives were available in their circuit but they did not always know whether a specific alternative was available at the time of sentencing. For example, a judge might know that drug treatment is available but will not know whether a bed is available or when it might become available.

- *Frequency of use* – Judges do not automatically request a sentencing assessment report, although most judges indicated that they requested a report for almost every offender. Some judges, however, do not request a report when the offender is to be sentenced to prison and others request a report only when there is an open plea.

- *Victim impact* – Most judges wanted more information about the impact of the offense on the victim, and when that information was lacking, some judges were

uncertain whether it was lacking because the victim refused to issue a statement or because the effort to obtain that information was inadequate. We found two themes in our research that were evidence of differing judicial attitudes about sentencing and about the process of crafting that sentence. First, some judges in out-state Missouri expressed concern regarding the recommended or presumptive sentence, indicating that their sentence was likely to be different.

Second, judges were of different minds concerning the role that the probation officer should have in recommending sentences. Some judges viewed recommendations by the parole officer as an unwarranted intrusion into their prerogatives but a substantial majority wanted a recommendation from the parole officer. One judge indicated that he wanted to compare the parole officer's recommendation to the sentence sought by the prosecutor and to the information provided on behalf of the offender by the defense counsel. Several judges argued that parole officers have more knowledge of the offender as an individual and have a more complete view of the offender's history. Based on knowledge, judges viewed it as appropriate for a parole officer to make a recommendation.

Conclusion

Judges reported having sufficient time to learn about the new system, although some had had minimal exposure to the sentencing assessment system prior to using the new reports. At the same time, judicial training that occurred during the period of this research provided attending judges with information and perspectives that they had not had prior to the training. We found that the training helped judges understand and apply the sentencing assessment reports.

Appendix H

RESTORATIVE JUSTICE IS VIABLE PRISON ALTERNATIVE

One of the charges of the Missouri Sentencing Advisory Commission is to explore real alternatives to imprisonment and report those findings to the Governor and General Assembly. The following is a research piece on restorative and reparative justice researched and written for the Commission's 2005 report.

The challenges of this era have caused many criminal justice practitioners to re-evaluate some of the basic tenets and practices of the system responsible for providing justice in our country. Historically our system is based on an assumption that “the state” assumes responsibility for all those impacted in the justice system. This approach has been widely challenged in recent years with victims and other parties expressing a desire to be heard and represented in this process. Our current system is primarily offender-oriented with the state’s interest driving the process.

Prison overcrowding, extensive correctional resources dedicated to relatively minor and non-violent offenders and the desire for additional involvement in the process by those previously not represented have caused many jurisdictions to look for alternatives. Budget constraints and a desire to make better use of available resources have resulted in an increased interest in innovative ways to address criminal justice issues and involve individuals and groups not previously represented in the criminal justice process.

Missouri’s interest in this area has been expressed in several ways. Section 217.777.1 RSMo., charges the Missouri Department of Corrections to administer a community corrections program to encourage the establishment of local sentencing initiatives. Among the goals in this section are:

- Promote the accountability of offenders to crime victims, local communities and the state
- Increase the use of restitution
- Reduce the costs of treatment, punishment and supervision of offenders
- Improve public confidence in the criminal justice system by involving the public in the development of community-based sentencing options for eligible offenders

In Section 217.440 RSMo., the Director of the Department of Corrections is authorized to establish a program of restorative justice within the department’s correctional centers. The department has been involved in restorative justice efforts primarily by providing an opportunity for community service work while incarcerated as well as victim-oriented programs that provide victims of crime an opportunity to educate offenders on the effects of crime on a victim and the community. These programs, while worthwhile, do little to provide alternative sentencing options or to provide for active participation of a victim and community in a particular crime that affects them.

In addition to the statutory direction, the leadership of the state has expressed increased interest in alternatives to the traditional model by directing department heads and commissions to explore this area. Senate Bill 5, which was enacted June 27, 2003 (Section 558.019.6 RSMo.)

directed the Sentencing Advisory Commission to consider the feasibility of incorporating alternative sentences, work release, home-based incarceration and probation and parole options into their work.

There is little doubt that restorative and reparative justice approaches will not replace prisons. Prisons will continue to be the primary method of sentencing for violent and dangerous offenders. It will also be the primary method for dealing with those offenders who do not lend themselves to these types of sanctions. This approach may, however, be a viable option for lower level adult offenders as well as juvenile offenders.

The concept of restorative and reparative justice is based on the premise that a crime represents a debt owed not only to the state, but to the victim, the victim's family and to the community as a whole. In addition, the offender is to acknowledge responsibility for the harm that has been done. It is the responsibility of the community to provide a forum in which justice can occur.

The resources of restorative or reparative justice depend largely on the assets available in the community as well as the willingness of various individuals and groups to participate in the process. While adherence to the principles is the most important aspect, communities and jurisdictions can develop an approach that is most likely to be successful in their area.

While there are great variations in approaches, some of the more common models will be briefly summarized in this document. The models may reflect the individual priorities of the community as well as the particular needs of the jurisdiction. It is important to note that the term "community" does not necessarily reflect a jurisdictional boundary but is more intended to reflect the social norms and connections that may exist regardless of the geographic boundaries.

Victim/Offender Mediation

This approach creates an environment where the victim has an opportunity to meet with the offender in a safe and structured setting for the purpose of a facilitated discussion of the crime. In this setting the victim is able to tell the offender about the effects of the crime from a physical, emotional and financial perspective. This setting can create an environment for questions to be answered as well as a forum to discuss the restitution plan for the offender.

Cases may be referred by judges, probation officers, prosecutors, defense attorneys and law enforcement officers. This approach has been used as a diversion from prosecution but also may be used after a formal admission of guilt with mediation as a condition of probation or other disposition.

It is important that the victim's and the offender's participation is voluntary. Implementation of such an approach must be mindful of sensitivity to the needs of the victim.

The American Bar Association has endorsed victim-offender mediation and recommends its use in the United States.

The following example of such mediation is cited by Gordon Bazemore, Ph.D. Professor, Department of Criminology and Criminal Justice at Florida Atlantic University, Ft. Lauderdale, Florida and Mark Umbreit, Ph.D. Director, Center for Restorative Justice and Peacemaking, University of Minnesota, St. Paul, Minnesota:

“The victim was a middle-aged woman. The offender, a fourteen-year old neighbor of the victim, had broken into the victim’s home and stolen a VCR. The mediation session took place in the basement of the victim’s church. In the presence of the mediator, the victim and offender talked for two hours. At times, their conversation was heated and emotional. When they finished, the mediator felt that they had heard each other’s stories and learned something important about the impact of crime and about each other.

The participants agreed that the offender would pay \$200 in restitution to cover the cost of damages to the victim’s home resulting from the break-in and would also reimburse the victim for the cost of the stolen VCR (estimated at \$150). They also worked out a payment schedule.

During the session, the offender made several apologies to the victim and agreed to complete community service hours working in a food bank sponsored by the victim’s church. The victim said that she felt less angry and fearful after learning more about the offender and the details of the crime. She also thanked the mediator for allowing the session to be held at her church.”

The connection with her church was comforting to this particular, and indeed, faith-based restorative justice programs are becoming especially popular. A church is often a focal point of a community, and its support for a restorative justice program can be enormous.

Community Reparative Boards

Variations of this model have been in use in this country since the 1920s. These boards are usually comprised of a small group of citizens who have been specifically trained for this responsibility. The board conducts public, face-to-face meetings with offenders ordered by the court to participate in the process. The board discusses the nature of the offense and develops a set of proposed sanctions. These sanctions are discussed with the offender until an agreement is reached. The board also monitors compliance and submits reports to the court.

This model has been used primarily with adult offenders convicted of non-violent and minor offenses. In recent years it has also been used with juvenile offenders.

Family Group Counseling

This model has been used primarily as a diversion option for juveniles but has also more recently been used for minor, non-violent adult offenders. This model uses police officers and school officials to set up and facilitate family conference meetings. Those participating are those most affected by the crime – victims, the offender, family, friends and key supporters. A trained facilitator leads a discussion centered on how the offense affected each of them and others. The result is a plan to determine how the harm can be repaired.

Each participant is given the opportunity to talk about how the crime has affected them. Each participant contributes to the problem-solving process and the development of a contract that addresses the repair that is to be done.

Circle Sentencing

This model is the most extensive in terms of the participants and scope of effort. It has been used extensively in Canada and by American Indians in the United States. It has been used with juvenile and adult offenders in both rural and urban settings. It is designed not only to address the criminal behavior of offenders but also to consider the needs of victims, families and the community.

In this model all circle members – victims, family, friends, police, prosecutors, judges and the offender -- have the opportunity to speak and deliberate to arrive at a consensus for a sentencing plan that addresses the concerns of all involved. The success of this model depends largely on the level of cooperation between the criminal justice system and the community.

Sentencing Circles have been used for serious and violent offenses, but are not appropriate for all crimes. Critical factors for consideration include the offender's character, sincerity and connection to the community. Since this approach can be very labor intensive, it is not recommended for a routine response to first-time offenders and minor offenses.

Conclusion

As previously mentioned, there is a great deal of flexibility in determining the best solution for a community. The key component is a strong relationship between the criminal justice practitioners and the resources of the community. There must be recognition that victim and community have an interest in being a working part of criminal justice and public safety in their area.

Restorative justice programs target the ultimate goals of improving public safety and reducing the likelihood that additional criminal activity will occur. The retribution model of sentencing in the United States has not always been seen as an effective method of achieving those goals, thus alternatives like restorative/reparative justice are gaining in popularity around the country. And, their effectiveness cannot be denied.